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Action Plan Review:
Germany 2023–2025

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Section I: Overview of the 2023–2025 Action Plan[1]

Germany's fourth action plan features commitments on a range of topics, mainly in the fields of transparency and open data. The most promising commitments come from the coalition agreement and include the introduction of a Federal Transparency Act and transparency guidelines for public-private partnerships (PPPs). Civil society mentioned that the co-creation process did not offer them sufficient opportunities to shape the content of the action plan. The IRM restates recommendations to institutionalize the OGP process for better co-creation of future action plans.

Germany's 2023–2025 action plan passed under the new coalition government in power since October 2021. The coalition government had also been responsible for the implementation of the previous action plan. The OGP portfolio has remained within the Federal Chancellery. The action plan features 15 commitments, four of which are led by Länder (states). Two commitments directly continue from the second and third action plans: decentralized citizens' dialogues for communicating foreign policy (Commitment 5) and public procurement (Commitment 9). The overall thematic focus is on transparency and open data, although the action plan features a diverse range of commitments and participating public bodies. Notable new areas in the fourth action plan are transparency of arms exports and public-private partnerships (PPPs).

Most commitments anticipate positive changes, although as stand-alone initiatives or without expected sustainable changes in practice. The most ambitious commitments originate from the coalition agreement, namely the introduction of a Federal Transparency Act (Commitment 1) and transparency guidelines for PPPs (Commitment 3). These commitments address the IRM's recommendation from the 2021-2023 Action Plan Review to align the OGP process with the goals of the coalition agreement.[2] The IRM identified as promising the commitments on the Federal Transparency Act, federal guidelines on PPPs transparency, continuation of the digitalization of public procurement, and the efforts of Schleswig-Holstein on linked open data. These commitments promise sustainable positive changes towards a more transparent and digital government and address important political topics.

AT A GLANCE

Participating since 2016
Action plan under review: 2023–2025
Number of commitments: 15

Overview of commitments:
- Commitments with an open government lens: 14 (93%)
- Commitments with substantial potential for results: 5 (33%)
- Promising commitments: 6

Policy areas:
Carried over from previous action plans:
- Open data
- Youth policy
- Public participation
- Open contracting
- Foreign policy dialogues

Emerging in this action plan:
- Freedom of information
- Arms exports transparency
- Linked open data
- Public private partnerships
- Dialogue for sustainable development
- Environmental and climate data

Compliance with OGP minimum requirements for co-creation: Yes

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For the co-creation process, the Federal Chancellery organized two rounds of consultation. The list of commitments was decided in advance through an internal government procedure. No notable changes were made to the commitments and no new commitments were taken up. Members of the Open Government Network (OGN)—Germany's network of organizations and individuals working on open government—mentioned there was insufficient opportunities and time allocated to discussing the commitments, which limited their desire and ability to participate in the co-creation process.

The IRM reiterates recommendations from the Co-Creation Brief to formalize the participation structure for the OGP process and organize outreach with thematic organizations working in the priority areas for the action plan.[3] This could be achieved by institutionalizing the federal OGP process—possibly through a formal multistakeholder forum. The Federal Chancellery and the OGN could also organize thematically focused consultations for civil society and relevant ministries and agencies to jointly discuss and develop commitments. Lastly, the IRM recommends continuing to encourage collaboration between subnational governments and between the federal and subnational governments on designing and implementing commitments. In this action plan, Commitments 12–14 on linked open data from Schleswig-Holstein and Berlin show the potential of subnational cooperation for open government, which could be expanded in future plans.

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[1] The IRM researcher thanks all interviewees for their participation in the development of this Action Plan Review. All sources cited in this report were last accessed on February 29, 2024.
[2] "IRM Action Plan Review: Germany 2021–2023," Open Government Partnership, 18 February 2022, https://www.opengovpartnership.org/documents/germany-action-plan-review-2021-2023.
[3] "IRM Co-Creation Brief: Germany 2022," Open Government Partnership, 2 December 2022, https://www.opengovpartnership.org/wp-content/uploads/2022/12/Germany_Co-Creation-Brief_2022.pdf.

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Section II: Promising Commitments in Germany's 2023–2025 Action Plan

The following review looks at the three commitments and one cluster that the IRM identified as having the potential to realize the most promising results. Promising commitments address a policy area that is important to stakeholders or the national context. They must be verifiable, have a relevant open government lens, and have modest or substantial potential for results. This review also provides an analysis of challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

Table 1. Promising commitments

Promising Commitments
1. **Federal Transparency Act:** The federal government wants to draft and pass a Federal Transparency Act. It will establish proactive publishing duties and a legal obligation to open data. This act could significantly increase the transparency and accountability of the federal government and serve as a foundation for a range of new open government initiatives towards a digital government.
3. **Public private partnership (PPP) transparency guidelines:** The guidelines are the first legally binding obligations for PPPs at the federal level. The guidelines could advance and clarify existing transparency practices to allow civil society and parliamentarians to better scrutinize PPPs.
9. **Data-based value-added services in public procurement:** This continued commitment promises to expand the new digital platform for tenders and derive benefits from the newly available data. The increased transparency of public procurement can increase the competitiveness of public procurement, enable the administration to better understand the market situation, and create opportunities for strategic procurement. The potential of this commitment hinges heavily on the involvement of subnational actors.
12–14. **Linked Open Data:** The Länder of Schleswig-Holstein and Berlin have developed a joint project to share their budget data as linked open data (LOD). Schleswig-Holstein will work towards the publication of all their datasets as LOD. This cooperation could advance transparency and digitalization of the local governments and establish a best practice for future progress on open data across Germany.

Commitment 1. Federal Transparency Act
Federal Ministry of the Interior and Community (BMI)

For a complete description, see Commitment 1 in Germany's 2023–2025 national action plan: https://www.opengovpartnership.org/wp-content/uploads/2023/08/Germany_Action-Plan_2023-2025_June_EN.pdf.

Context and objectives
With this commitment, the federal administration aims to unify and advance their access to information regime under a Federal Transparency Act. The commitment is a priority of the government coalition agreement.[1] Civil society has lobbied for stronger federal transparency legislation for years. In 2022, a coalition of transparency NGOs presented the government with a draft version of a transparency bill.[2] Two civil society priorities are included in the proposed Federal Transparency Act: proactive duties to publish government information and a legal entitlement to open data.

Germany scores poorly on access to information in comparison to other countries. In the Right to Information Index of the Centre for Law and Democracy, Germany ranks 127th of 139 countries, scoring 54 out of 150 points.[3] This ranking assesses the 2006 federal Freedom of Information (FOI) Law ("*Informationsfreiheitsgesetz*"),[4] and criticized it for insufficient oversight and a clear definition of information request procedure as well as excessive exceptions (though this rating assesses only the law and not its implementation).[5] Administrations can also charge fees for information disclosure and often redact relevant information through extensive and unclear exceptions. In addition, the administration has in several cases sought to limit the disclosure of documents and only complied after (the threat of) legal procedures.[6]

Since the FOI Law entered into force in 2006, only minor changes have been made to the fee structure.[7] An evaluation of the law was commissioned in 2012, but its recommendations have not been implemented.[8] To simplify information request procedure, civil society launched the "*FragDenStaat*" platform to send FOI requests and make the disclosed information publicly accessible.[9] A range of other laws for accessing federal government information also apply. For example, a ratified EU legislation governs the disclosure of environmental, geospatial, and consumer information data as well as the use of open government data.[10] At the state level, many Länder have passed their own FOI Laws, although they differ significantly.[11] Hamburg was the first federal state to pass a transparency law in 2012 in response to a citizens' initiative. Important innovations exist in the Hamburg law, such as extensive proactive publishing duties and stronger oversight, which a coalition of transparency NGOs used as a point of reference when preparing their draft version of the Federal Transparency Act.[12]

Potential for results: **Substantial**
This commitment has substantial potential for results in advancing access to information at the federal level in Germany. The fragmentation of access to information under a range of legal acts and the complexity of data laws at the EU, federal and Länder levels has created a complicated structure that is difficult for citizens to navigate. If adopted, the Federal Transparency Act would integrate the diverse and complex legal structure at the federal level into a coherent piece of legislation by mandating proactive publishing duties and establishing a legal entitlement to open data. The promised changes not only advance the ability of citizens to understand their government but could also lead to strong follow-up commitments to make information more accessible for citizens, improve the usability of information for government services, and strengthen the digitalization of public administration.

The Federal Transparency Act will create strong publishing duties for the government. Most transparency laws establish a dual structure for access to information. A set of predefined information is published proactively, while other information can still be requested under a procedure like that under the current FOI Law. Proactive publication makes it significantly easier for citizens to access information. A range of documents and data sets will be accessible in a central transparency portal without the need to request it. Evidence shows that there is significant interest in the information held by the federal administration, with around 14 thousand FOI requests per year at the federal level.[13] Proactive publication could lower the administrative burden by significantly lowering the volume of requests.

The second key element is the legal entitlement to open data. Currently, the Open Data Law (§12a EGovG) mandates the federal administration to publish their datasets as open data, though it explicitly rejects a legal entitlement. As a result, open data in Germany is not legally enforceable and its implementation has lagged.[14] A legal entitlement could ensure the effective implementation of existing legislation and advance open data for public monitoring and reuse.

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Beyond this, it could play a significant role in furthering the digitalization of public administration, as highlighted by a Wikimedia representative.[15] Currently, the publication of open government data often requires additional effort, for example in compliance with special legislation such as the high-value data sets published under Directive (EU) 2019/1024.[16] Additional pressure from a legally enforceable clause on open data could incentivize administrations to adopt efficient data practices, including for internal use. Open data, conceived this way, is not merely an end, but the side product of effective digital government that could be shared with ease.[17] The potential new pathways to a more digital government are especially relevant, given that Germany continues to perform below the EU average on digital government indicators.[18]

Opportunities, challenges, and recommendations during implementation

The Federal Transparency Act could significantly improve the accessibility of government information, provide legal clarity, and simplify administrative procedures. It could also send a positive signal to local administrations for more transparency. Strong transparency legislation is not a popular topic for the administration and will require strong political backing to be effective. A study by Transparency International finds that strong political support, as well as independent oversight and clear legal structures are key conditions of an effective transparency act.[19] An outline of the Federal Transparency Act was supposed to be published at the end of 2022,[20] but the BMI now aims to publish the draft law by the end of 2024. Repeated delays, lack of communication from the BMI, and absence of milestones in this commitment have generated concerns among Open Government Network members that the law will not pass during this legislature or fail to meet expectations. To address this, the IRM recommends the following:

- **Involve civil society in designing and implementing the Federal Transparency Act**. Changes to transparency practices can be seen as an added burden to the administration, especially in the early phases of implementation. In the field of open government data, there is often a lack of awareness surrounding use cases for government information.[21] Involving civil society in the design and implementation of the law could reduce these perceptions and showcase the benefits of transparency. Drawing on past efforts of civil society could allow the government to build stronger political momentum and help push the bill through parliament. The draft bill prepared by civil society could serve as inspiration, as it incorporates the results of a public consultation.[22] Priorities for civil society include proactive publication of contracts above EUR 100 thousand, assessments and studies commissioned by administrations, information on subsidies, and laws and directives. In practice, the government could work with civil society to identify priority information for disclosure, identify lack of compliance, and ensure that information is shared in accessible formats.

- **Create legal clarity by integrating the complex legal landscape and simplifying FOI request procedure.** The current legal landscape is difficult to navigate for the average citizens. An integrated transparency act can create legal certainty if it aligns EU law, existing standards, and ambitious improvements. In particular, it will be important to provide greater clarity on exceptions. A Transparency International Germany representative recommends basing the law on the principle of "open by default" to set clear guidance for the administration that all information should be publicly accessible, unless reasons to the contrary prevail.[23] Exceptions must be narrow, sufficiently justified, and clearly defined in the law to reduce the judicial burden.

- **Create strong oversight around information disclosure and open data through a strong ombudsperson**. Effective transparency regulations require clear procedures and structures for the administration. The case of Hamburg shows that a strong ombudsperson for privacy and freedom of information can help enforce information disclosure. In addition to the ability to investigate violations and establish them before a court, the ombudsperson could have the power to enforce the disclosure of information where persistent violations are found. Oversight is also important to guarantee the legal entitlement to open data, which is a key lever for effective digital government. As such, barriers to submit complaints on missing data could be set low and mostly managed below the courts. To avoid excessive administrative burden and prioritize information of public relevance, the government could orient the Federal Transparency Act on proposals made in a recent study by the Max Planck Institute for Innovation & Competition.[24] All information shared under the act could be made machine-readable and reusable in accordance with open data standards. The publication of datasets of relevant public interest shared under the existing open data law must also be enforced. This could reduce administrative burden to publish all datasets and focus on those with significant potential for reuse.
- **Use the Federal Transparency Act as a foundation for more open government initiatives, including in future OGP action plans.** Effective transparency requires a sustainable cultural change towards greater openness. Germany's next OGP action plans could include measures to make information more accessible, create structures for the reuse of information, and spread best practices to subnational levels. For example, following its 2022 Open Government Act, the Netherlands' 2023–2027 OGP action plan included commitments to assess which information to proactively disclose to meet the information demands of citizens and comply with the findable, accessible, interoperable, and reusable (FAIR) principles for all published documents.[25]

Commitment 3. Public-private partnerships (PPP) transparency guidelines
Federal Ministry of Finance (BMF)

For a complete description, see Commitment 3 in Germany's 2023–2025 national action plan: https://www.opengovpartnership.org/wp-content/uploads/2023/08/Germany_Action-Plan_2023-2025_June_EN.pdf.

Context and objectives
With this commitment, the federal government aims to increase the transparency of its public-private partnerships (PPPs). Driven by public scandals and lack of transparency, parliamentarians and the public have been critical of PPPs.[26] Some argue that PPPs involve an unequal division of costs and benefits between the public and private sectors, highly prone to corruption, negotiated without sufficient transparency, and can be used to obscure debt statistics.[27]

In 2005, Germany passed a law to accelerate public procurement via PPPs. In 2008, the consulting company Partnerschaften Deutschland, later ÖPP Deutschland AG, was founded with the explicit goal of increasing the share of PPPs in Germany. The German government held a majority stake in the company.[28] The company has been criticized as a lobbying organization that exists within the state and accused of conflicts of interest, although a previous investigation by the Federal Audit Office found no wrongdoing.[29] Most of the ongoing PPPs at the federal level were established between 2005 and 2012. In 2014, a report by the Federal Audit Office found that PPPs in the construction of highways failed to meet the expected costs

and were more expensive than traditional procurement.[30] Had the actual costs been expected, the PPPs would not have been established.

This commitment aims to implement the first legally binding transparency guidelines for all PPPs at the federal level. Numerically, most PPPs are at the subnational level, mainly in the renovation and construction of schools and kindergartens, but the financial figures of federal PPPs greatly surpass those at the subnational level.[31] In 2023, the federal government was engaged in ten PPPs in the construction and maintenance of highways, four in the construction or renovation of buildings, and one in defense—roughly totaling EUR 12 billion.[32] The commitment takes up a promise from the coalition agreement[33] and was incorporated into the action plan at an early stage. There was no prior consultation with civil society, who nevertheless welcomes the measure. Consultations are planned in the later stages of the commitment.

Legally, PPPs need to demonstrate that they can improve the efficiency of public procurement through expected cost savings. The proposed guidelines are intended to make this assessment transparent to the public. Currently, the government reports on ongoing federal PPPs every four years at the midway mark of the legislative period.[34] The 2023 report describes all ongoing PPPs, the characteristics of the contracts, the expected and current costs, the rationale behind the choice of a PPP over conventional procurement, and user satisfaction.[35] The Ministry of Finance (BMF) states that feedback from the action plan consultation period was used to develop the questionnaire for the 2023 report. In addition, federal ministries have adopted a set of voluntary transparency measures, such as the Federal Ministry of Transport and Digital Infrastructure (BMDV) which published their PPP contracts, albeit with partial redactions.[36] They also published a sample economic feasibility study, arguing that the publication of real examples harms the fiscal interests of the state.[37] Other federal bodies have not adopted such measures.[38] While PPPs are also subject to FOI requests, in practice relevant information is rarely shared due to the protection of trade secrets and fiscal interests.[39]

Potential for results: Substantial
The commitment answers a strong public demand for more information on PPPs. The legally binding nature of the guidelines gives the commitment substantial potential for results, as the increased transparency of federal PPPs will be sustained over time. Given its cost-intensive characteristic, better communication and accountability of federal PPPs bear significant importance. Previous scandals illustrate why more transparency is needed to assess PPPs, hold politicians accountable for exaggerated claims, and scrutinize the involvement of lobbying and consulting organizations such as ÖPP Deutschland AG.

The commitment represents a significant improvement to current transparency practices. It enables a continuous assessment of PPPs instead of reporting every four years. More coherent practice across federal ministries could improve the accessibility of information. The BMF aims to coordinate this initiative with Commitment 1 to avoid dual obligations. However, the transparency measures in the coalition agreement are more ambitious than those under this commitment, promising the disclosure of contracts and economic feasibility studies.[40]

The BMF states that while the content of the guidelines is still under development and the pledges from the coalition agreement remain under consideration, the goal is to establish a legally binding norm below the level of a law. The commitment calls for the involvement of civil society in determining the content of the guidelines. The process will feature two rounds of consultation and workshops, including internal consultation with relevant ministries to assess which information can be disclosed. Given their application in different sectors, different

models, and contractual differences, external consultations can help determine adequate standards for transparency across all PPPs that reflect both administrative practice and public demands.

Opportunities, challenges, and recommendations during implementation

The transparency guidelines are an important first step towards a more open conversation around procurement via PPPs. The guidelines should support the disclosure of a large scope of information in a usable and open format. It will also be important to assess to what extent the current grounds for non-disclosure are legitimate. In the federal government's most recent PPP transparency report, several ministries expressed concerns regarding the publication of contracts and economic assessments,[41] which are priority areas for civil society. This is indicative of the discrepancy between the coalition agreement and current administrative practice. The federal government should ensure that exceptions to transparency are only allowed in legitimate instances. To achieve these goals, the IRM recommends the following:

- **Adopt a strong stance on transparency in line with the coalition agreement and align with the Federal Transparency Act**. Effective public scrutiny of PPPs will require more than the publication of expected efficiency gains and current costs. The coalition has agreed on this scope.[42] The government could adopt a detailed information disclosure that enables public scrutiny of the assumptions that inform the economic efficiency assessments as well as contractual details, which have generated controversies.[43] Only legitimate reasons for non-disclosure must be granted, such as expected detrimental effects on the competitiveness of the public sector. The World Bank has prepared a framework for disclosure in PPPs that could serve as a reference to the government.[44] Additionally, the Open Contracting Partnership (OCP) has some recommendations on how to publish contracts with minimal redactions in a way that does not harm the economic interests of the state or deter bids.[45] The government could streamline the work on PPPs transparency with the adoption of the Federal Transparency Act under Commitment 1 to capitalize on the political momentum.
- **Adopt international standards such as the Open Contracting Data Standard (OCDS) for PPPs.** The current reporting format provides useful information, but its accessibility is limited. Adopting international standards could make the effort more sustainable, enable easier access for researchers, and help create visualization tools. For examples, the OCP has developed OCDS for PPPs,[46] which outlines important information to publish in line with the World Bank's PPP disclosure framework[47] and makes the data easily accessible. In the next action plan, Germany could adopt the OCDS for PPPs and/or aggregate relevant information on a central platform.
- **Implement the guidelines during this legislative period and expand them in the next OGP action plan.** The timeline of the guidelines is ambitious. Given the urgency of the topic, the IRM recommends creating a strong legal basis during the current action plan cycle through the Federal Transparency Act. Compromises may be made in terms of international standards or visualization tools but not in terms of disclosure level. The government could also include cooperation with user groups in the implementation of the new guidelines to develop effective ways of monitoring PPPs and improve public trust.

Commitment 9. Data-based value-added services in public procurement

Federal Ministry of the Interior and Community (BMI) and Procurement Office of the Federal Ministry of the Interior and Community (BeschA)

For a complete description, see Commitment 9 in Germany's 2023–2025 national action plan: https://www.opengovpartnership.org/wp-content/uploads/2023/08/Germany_Action-Plan_2023-2025_June_EN.pdf.

Context and objectives

This commitment continues a commitment from the 2021–2023 action plan[48] that established a central platform for all above-threshold tenders in a standard format.[49] Under the current commitment, the Federal Ministry of the Interior and Community (BMI) and its Procurement Office (BeschA) aim to use this platform to improve public procurement. Specifically, they will publish standardized datasets and develop prototype questions accessible on an online dashboard and in consultation with stakeholders. In addition, the BMI and BeschA will enhance the platform and the technical standard eForms-DE to include below-threshold tenders at the federal level as role model, encouraging wider uptake of the platform at subnational levels on all government levels, and connect the platform to the EU's Public Procurement Data Space. This commitment builds on the coalition agreement's promise to digitalize public procurement.[50]

Germany has a complex legal framework for public procurement.[51] Since October 2023, it is mandatory for all procurement above the thresholds set by the EU to be published in the eForms standard. Germany used the previous commitment to comply with this requirement, establishing the eForms-DE data standard, developed to be compatible with the Open Contracting Data Standard (OCDS). Germany has recently initiated a reform of its procurement law ("Vergabetransformationspaket"). To this end, the Federal Ministry for Economic Affairs and Climate Action (BMWK) is currently preparing a draft law and hosted a large-scale public consultation, which received over 450 submissions. In June 2023, the BMWK organized five stakeholder discussions with roughly 200–330 participants each[52] and identified three key priorities: simplification, sustainability, and digitalization of procurement process.[53]

Potential for results: Modest

The use of procurement data can help administrations and businesses better understand the market and better monitor their goals e.g., sustainability or innovation targets. This commitment can enable greater public scrutiny of procurement, better strategic planning by public administrations, and increase the competitiveness of public procurement. Small and medium enterprises (SMEs) could benefit from easier access to public tenders.[54] However, the potential for results of this commitment will depend on the uptake of the eForms-DE data standard, including where it is not mandated by EU law.

In 2021, the market value of public procurement in Germany surpassed EUR 100 billion.[55] Around 10% of all tenders are above-threshold, making up around 75% of market volume.[56] The transparency measures under this commitment would therefore provide insight to a significant portion of the market. For Länder and municipalities, transparency of below-threshold procurement is especially relevant. At federal level, the contract value of above-threshold procurement surpasses the below-threshold ones by around eight times. At municipal level, the values are roughly equal,[57] but the availability of public procurement data at remains limited[58] and procurement practices differ greatly among individual municipalities. Meanwhile, below-threshold procurement at federal level occurs through diverse processes. This data is currently integrated through an adapter which converts them to a simplified eForms-DE format, leaving room for improvement in terms of data quality. This ex-ante transparency will help prevent corruption and increase market competitiveness,[59] but limit the understanding of the below-threshold market.

The implementing agencies commented that some municipalities perceive the new system as an added burden, as the eForms-DE standard requires more inputs than is commonly required by law. It is already integrated into laws, agencies, and cooperative forums between federal, Länder, and municipal administrations, such as the "*Onlinezugangsgesetz*", federal coordination for IT, and the IT planning council ("*IT-Planungsrat*"). The implementing agencies noted that federal and Länder governments want to engage municipalities on the benefits of greater transparency. The providers of the procurement management systems will offer training and accompanying communication, which could help convince more administrations to adopt the standard. For municipalities, the new system could enable better market insights and help them compare their procurement needs to other municipalities. This would improve understanding of the possibilities for procurement and the market situation.[34]

Opportunities, challenges, and recommendations during implementation
The commitment is a promising follow-up from the last action plan. The new platform and the eForms-DE data standard hold great potential in increasing the competitiveness and transparency of public procurement. They could also help with strategic market planning and the coalition government's green transition goals. The key challenge remains the diversity of practices regarding below-threshold procurement. The goal must be to promote the new transparency measures to all procurement processes to enable better planning of procurement. To reach this goal, the IRM recommends the following:

- **Expand collaboration with municipalities and Länder for wide uptake of eForms-DE**. Municipalities and Länder could benefit from publishing their tenders in the eForms-DE format. Many municipalities still perceive digitalization as a burden instead of an opportunity for a more competitive and transparent procurement process. Clear procurement procedures for administrations and businesses (regardless of EU threshold) and a central digital platform to identify and apply for tenders could enable more efficient public procurement.
- **Consult stakeholders to identify priorities for data disclosure**. The coalition government wants to mobilize public procurement towards strategic targets, especially regarding sustainability and innovation. Currently, only 12,7% of tenders (13% of contract volume) consider sustainability and innovation criteria.[60] In line with OCP's recommendation to develop priorities for data collection with stakeholders,[61] the commitment currently includes consultations on prototype questions, although it might be beneficial to involve them in the creation of the standardized dataset. The consultations held by the BMWK in the context of procurement law reform could be a starting point for future collaborations. In the case of Paraguay, businesses proved to be an effective partner in developing an easy-to-use e-procurement platform that responds to the needs of SMEs.[62]
- **Enable public oversight of public procurement**. At present, the project is mainly aimed at data analysis by public administration and businesses. The newly available data on public procurement could also be used to enable citizens to better scrutinize public procurement practices. To this end, the BMI and the BeschA could work with civil society to develop transparency features. One important area is the ability to track contracts awarded under single-bidder procedures over time, as these contain higher risks of corruption and inefficiencies. Chile offers a good practice example where citizens could monitor the public procurement of medicine and identify inefficiencies, which decreased the cost by around 60%,[63] by working with a civil society council to

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publish data based on the needs of its users. As a result, it has become significantly easier for citizens to monitor public procurement and identify inefficiencies.
- **Reform and simplify the legal framework regarding public procurement.** Simplification of public procurement is a main priority of stakeholders. The procurement law reform ("*Vergabetransformationspaket*") provides an opportunity to work towards a digitalized and strategic procurement process and mandatory use of eForms-DE.

Commitments 12–14: Linked Open Data
Berlin Senate Department for Finance (Commitment 12) and State Chancellery of Land Schleswig-Holstein (Commitments 13 and 14)

For a complete description of the commitments included in this cluster, see Commitments 12, 13, and 14 in Germany's 2023–2025 national action plan: https://www.opengovpartnership.org/wp-content/uploads/2023/08/Germany_Action-Plan_2023-2025_June_EN.pdf.

Context and objectives
Linked open data (LOD) forms the foundation of effective digital government and enables a vast array of new use cases.[64] LOD involves assigning stable Uniform Resource Identifiers to the data and connecting datasets. LOD enables analyses across different datasets, therefore reducing the burden of administrations, academics, and civil society in compiling composite datasets. Germany lags in LOD and open data generally.[65] Open data practices diverge significantly across municipalities. Some larger cities proactively share their data and have created open data portals, but most cities do not.[66] The legal framework surrounding open data also differs between the Länder, but nowhere is disclosure of open data a legal requirement. The latest progress report on open data of the Federal Government (2019) highlights several shortcomings of the open data framework: many administrations are not sharing more data, open data is not integrated early on in changes of technical or organizational procedures, and most administrations not being aware of use cases.[67] Open data has been a part of Germany's previous OGP action plans, but civil society has criticized the lack of an overarching strategy.

The three commitments of this cluster will advance LOD within Schleswig-Holstein and Berlin. Schleswig-Holstein will work towards sharing all their data as LOD (Commitment 14) and develop a visualization tool for budget data in cooperation with Berlin (Commitment 13). To that end, both Länder will jointly develop the semantics to share their budget data as LOD. This means developing a standardized terminology to describe the data to enable linkage between datasets. Berlin will share their budget data as LOD and document its experience of linking budget data and experience sharing with Schleswig-Holstein (Commitment 12). This could be seen as a first step towards a wider adoption of LOD, which is also one of the goals of Berlin's open data strategy passed in 2023.[68] Both Länder worked with civil society to develop the activities under their respective commitments before their inclusion in the action plan.[69] Berlin has also worked with civil society in developing their recent data strategy.[70] Schleswig-Holstein hosted data dialogues ("*Datendialoge*") to identify the priorities of academia, civil society, and businesses in developing their approach to open data. In both cases, stakeholders identified LOD as a priority. Cooperation between Schleswig-Holstein and Berlin emerged out of personal contact between the two implementing officers, established by a member of civil society.

Potential for results: Substantial
LOD can enable new standards of digital government in Germany and set the foundations for cooperation between civil society and public administration. Effective open government in

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Germany requires cooperation at the subnational level to create workable solutions for the use of data at scale. The commitments were clustered, as they constitute clear steps in the direction of wider LOD use and provide a leading example of cross-Länder cooperation. Taken as a whole, this cluster has substantial potential for results. Schleswig-Holstein sets an ambitious target of publishing all their data sets as LOD. This commitment will lead to a sustained increase in the accessibility and reusability of open data, backed by the additional goals of coordinating their release of budget data with Berlin and ensuring usability through a data visualization tool. The benefits of LOD on a larger scale hinge on the adoption of common terminologies to enable linking data sets. The cooperation between Schleswig-Holstein and Berlin could serve as an example for Länder.

Good data management enables administrations to work efficiently in an evidence-based manner.[71] At the same time, sharing open government data in usable formats makes it easier for citizens to understand administrative practices and hold governments accountable. As the commitments for Schleswig-Holstein promise to work towards linking all their data sets, there are significant gains expected in digital government. The expected cooperation with municipalities could also be important. While cooperation will be voluntary, Schleswig-Holstein provides the technical infrastructure ("*Kommunales Informationssystem*") which enables local administrations to conduct new analyses on their data and provide use cases. This is important because many administrations are unaware of use cases for their data outside the administration[72] and open data is often perceived as an additional burden.

For Berlin, the commitment mainly serves as a pilot for LOD. The potential of this commitment hinges on its integration into a wider strategy towards LOD. Budget data as LOD, especially in a form interoperable with Schleswig-Holstein's data, increases the accessibility and reusability of open data within one important area. More substantial improvements in open data in Berlin will require learning from this case and expanding it to other areas. The commitment text promises that the experience will be documented and serve as examples for a future expansion of LOD. The milestones of this commitment however do not specify the process or goals of this expansion, limiting the potential for results of this commitment.

Opportunities, challenges, and recommendations during implementation
The main challenges for open data are lack of knowledge and resources, fragmented approaches between the Länder and lack of political rewards for projects outside of public attention like the effective digitalization of administrative practice. To be effective, Länder need to cooperate and commit to long-term strategic plans and build competences. The commitments of this cluster tackle several of these challenges and have a clear potential to act as role models for future improvements in LOD in Germany. In future OGP action plans, other Länder could include more commitments for ambitious open data reforms like the proposals by Schleswig-Holstein. The IRM recommends the following steps:
- **Integrate the cooperation into a larger strategy toward LOD (Berlin).** Berlin's commitment promises that the project will be documented for future scaling-up. It will be important to use the sharing of budget data as LOD as a pilot case toward sharing all data as LOD. The IRM recommends reflecting on the challenges in establishing LOD and integrate points raised by civil society in the consultation of the data strategy, where LOD was highlighted as a priority area.[73] Adopting good administrative practices for open data will take time. While the Berlin open data strategy does feature the goal of LOD, the only means currently being promoted towards that end are barcamps, co-organized with the Open Knowledge Foundation Germany, to work on LOD prototypes.[74]

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In addition, the IRM recommends developing a larger plan toward LOD with ambitious targets. Under a larger plan, the collaboration with Schleswig-Holstein could serve as a first step in adopting LOD in all areas of open data.

- **Collaborate with civil society, academia, and business to showcase the value of LOD.** Both Länder already have strong cooperation with stakeholders. In addition to these dialogue forums, the IRM recommends extending collaborations into the area of projects that use LOD and show its benefits. This could take the form of small grants to develop prototypes, prizes for the best use of open data, and especially the potential to adopt independently developed projects into administrative practice, such as budget data visualization included in this commitment. The project was originally run by civil society but failed to secure long-term support. After the discontinuation, Berlin restarted the project and now runs their version as open-source software.[75] Lack of support has led to discontent in the open data community and risks diminishing their interest in future collaborations. Extending the dialogue forums into communities for collaborative creation of projects that provide benefits for citizens and showcase the value of (linked) open data could strengthen support for LOD policies and foster an active exchange with stakeholders.

- **Share the best practices from this cooperation with other Länder**. Cooperation in open data initiatives is crucial to ensure coherence across Länder. For future open data initiatives, it will be important to establish channels for agreement between Länder, so that data sets can be linked. The cooperation between the two Länder in this cluster could be a positive example for other Länder to join or adopt. The present commitments could inspire others to see the benefits of LOD and inter-Länder cooperation. Moreover, coherent data standards can support policy analysis, for which an overview of the situation across all Länder is crucial. In this regard, Wikimedia Germany recommends adopting a system of rough majority consensus among Länder, for example in adopting the framework for budget data.[76]

Other commitments

Other commitments that the IRM did not identify as promising commitments are discussed below. This review provides recommendations to contribute to the learning and implementation of these commitments.

Commitment 2 takes up a promise from the coalition agreement to make arms exports more transparent by establishing a searchable and up-to-date database of authorization data relating to German arms export control.[77] Since the start of Russia's full-scale military invasion of Ukraine and the war in Gaza, arms exports have been a hotly debated topic in Germany. Germany is the fifth largest arms exporter in the world, accounting for roughly 5% of all arms transfers globally.[78] German arms exports are divided into the categories of weapons of war and other military items. The production, transportation, and marketing of weapons of war are in principle prohibited by the constitution and require the consent of the government, administered by the Federal Ministry for Economic Affairs and Climate Action (BMWK) and the Ministry of Defense (BMVg). All exports are assessed in the context of the human rights situation in the receiving country, regional stability, and international relations, with special considerations for exports to non-EU and non-NATO countries. Other military items can be exported under the agreement of the Federal Office for Economic Affairs and Export Control (BAFA).[79] Since 1999, the German government has reported on its arms exports, currently in biannual reports and (since 2022) quarterly figures in press releases. The BMWK reports export list items ("*Ausfuhrlistenpositionen*") under broad categories (e.g., A0001: Small arms and

automatic weapons). In reports of arms exports to Ukraine, however, the BMWK directly reports the number and type of weapons.[80] Germany also reports to the UN Register of Conventional Arms (UNROCA), the Secretariat of the Arms Trade Treaty, and to the Organisation for Security and Cooperation in Europe (OSCE). In addition, civil society monitors arms exports through existing channels, including cooperation with MPs, who can issue parliamentary requests for information on arms exports and answers to parliamentary requests are made public on the website of the Bundestag.

The commitment does not specify whether additional data not currently available in the biannual report will be disclosed. The government states that questions of the extent of data being disclosed will be answered in the process of setting up the database, considering the limitations set by constitutional law and the requirements of foreign and security policy.[81] According to an expert on arms exports, the most crucial additional information for disclosure is the precise weapon type beyond the export list item, the recipient and contract volume, and reexports ("*Reexportgenehmigungen*"). The most contentious issue is small arms and light weapons (SALWs), for which Germany adopts the EU's definition of weapons of war which is more restrictive than the UN's. In the biannual reports, the government only reports with reference to the broad export list items. In compliance with the UNROCA, the government reports the precise systems only for large weapons, whereas SALWs are included as numbers within a broad category (e.g., the export of 83 assault rifles of unspecified type to Italy in 2022).[82] In 2022, Germany reported the export of SALW at around EUR 87 million, whereas the total SALW exports (including weapons like sniper rifles and pistols, which are classified as sporting weapons but have received public criticism due to their repeated appearance in conflict zones)[83] was EUR 272 million.[84] The expert also highlighted the increase of general export authorizations for dual use and conventional arms. The currently issued authorizations (for instance of explosives to countries like the Republic of Korea and Singapore) generally include mandatory notifications to the BAFA,[85] but it is not evident whether they need to be included in the export reports, as they only include figures of new, not general, authorizations.

The searchable database could improve current transparency practices by reducing the need to rely on parliamentary requests and increasing the timeliness of information and is thus a timely and welcome addition to open government. However, the BMWK was not available to interview for this Action Plan Review. To increase its impact, the database could include as much granular information as possible, ideally to the same extent as current reporting practices on the war in Ukraine. To advance transparency, the database could also include information on exports under general authorizations and SALWs in line with the UN standards.

Under **Commitment 4**, the federal government will publish its first report on the convergence of living standards across Germany. The report could provide evidence base to inform the persistent debate on differences in quality of life between rural and urban areas and between the Länder of the former German Democratic Republic and the rest of the country. The commitment involves focus groups of people active in their respective regions, which could be a good way of including citizens with local expertise in the report. If the report results in policy changes, the IRM recommends involving local civil society organizations in drafting and implementing the new policies. The federal government could also make the data from the report accessible as open data to enable reuse by researchers.

Commitment 5 continues a commitment by the Federal Foreign Office (FFO) from the second action plan (2019–2021) to bring foreign policy closer to the public. Since the start of Russia's full-scale military invasion of Ukraine and Chancellor Olaf Scholz's "Zeitenwende" proclamation,

foreign policy has been high on Germany's political agenda. The commitment calls for organizing decentralized dialogues between the pool of volunteers at the FFO's Visitor Centre and the public. These events have previously taken place exclusively in Berlin and will now be expanded to other parts of Germany. The FFO will also increase their pool of volunteers and collaborate with three to five civil society organizations. Stakeholders find this commitment particularly timely as it could make the abstract topics of foreign policy more understandable to citizens and help the FFO understand the priorities of citizens. The IRM recommends reaching new audiences by collaborating with civil society organizations beyond the usual suspects, such as those that work in youth education and with disadvantaged groups. During the consultation, it was also recommended to integrate this dialogue into municipal foreign policy as some regions are highly dependent on their foreign relations (e.g., Hamburg and Duisburg for their ports, and Mannheim with their development initiatives abroad).[86] These initiatives are currently not well linked to federal foreign policy and could be discussed through these dialogues.

Commitments 6, 7, and 8 involve developing dialogue forums on sustainable agricultural policy (Commitment 6), opportunities for children (Commitment 7), and homelessness (Commitment 8). For agricultural policy, the responsible ministry has been working with practitioners since 2017 and now aims to evaluate and refine their approach into a blueprint for institutionalized participation. Members of the Open Government Network highlighted the approach as noteworthy for its wide-ranging participation with more than 50 members and the involvement of two ministries. However, the IRM has not assessed this commitment as promising as the network was already established before the action plan. The evaluation and guidelines are good stand-alone initiatives but could be combined with an evaluation of other participation forums such as those included in the action plan. Commitment 7 and 8 deal with the development and implementation of national action plans in their respective fields and feature the participation of underrepresented groups in policymaking. Commitment 8 involves creating a national homelessness forum to guide the implementation of the national action plan, composed of representatives from the federal, state, and communal administration, and civil society organizations. Although the details of the forum are still being determined, it could enable an effective dialogue between different levels of government and civil society. In addition to these stand-alone measures, the IRM recommends the federal government evaluate the benefits and challenges of these diverse participatory forums and develop central guidelines for participation which specify to what end they can be used, barriers (especially for institutionalized participation), and integration of the recommendations in policymaking.

Under **Commitment 10** the German Environmental Agency aims to improve open data related to the environment. The agency will introduce a "data cube" format for accessing diverse data, for example, structured by time or place. The data cube could make environmental data more accessible and reusable for research and environmental protection practice. The government states that all developments for the DataCube are based on the ".Stat Suite" and are open source. The regional bodies are welcome to implement it and structure their data similarly.[87] The IRM recommends pursuing this inclusion of subnational governments, as these governments hold large amounts of environmental data shared in accordance with EU law. This data is in part already available via the meta data platform umwelt.info. A central access through the structure of the DataCube could further increase the accessibility of this data.

Commitment 11 addresses the role of Sustainable Development Goals (SDGs) in the legislative process. The Federal Chancellery (BKAmt) and Federal Ministry of Justice (BMJ) have issued recommendations to government departments to take into account the SDGs when developing concepts or preparing draft legislation, with the goal of reaching SDG targets by

2030. The BKAmt and BMJ will evaluate how SDGs have been integrated into the legislative process, develop improvements with stakeholders, and create a training module on sustainability in legislative practice supported by dialogues involving a wide range of stakeholders from existing councils and networks.[88] At the time of writing, this commitment has resulted in the publication of a report on the implementation of recommendations.[89] In addition to training modules, the report highlights the need for sharing best practices and awareness raising on the necessity of SDG evaluations. Given the goal of reaching SDG targets by 2030, the government could follow up this commitment by developing ways of closely monitoring SDGs in legislative practice, including through existing participatory forums on SDGs that are part of the commitment.

Under **Commitment 15**, Mecklenburg-Western Pomerania aims to digitalize the process for building applications as a digital service to be used in all of Germany under the Online Access Act. While the commitment is an important step towards the digitalization of administrative procedures, it would need to enhance transparency for the public, include a mechanism for civic participation, or enable public accountability for it to have an open government lens. The IRM recommends implementing this commitment in a way that advances open government, such as by disclosing information regarding the application process as open data.

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Section III. Methodology and IRM Indicators

The purpose of this review is not an evaluation. It is intended as a quick, independent, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. The IRM highlights commitments that have the highest potential for results, a high priority for country stakeholders, a priority in the national open government context, or a combination of these factors.

The IRM follows a filtering and clustering process to identify promising reforms or commitments:

Step 1: Determine what is reviewable based on the <u>verifiability</u> of the commitment as written in the action plan.

Step 2: Determine if the commitment has an <u>open government lens</u>. Is it relevant to OGP values?

Step 3: Review commitments that are verifiable and have an open government lens to identify if certain commitments need to be clustered. Commitments that have a common policy objective or contribute to the same reform or policy issue should be clustered. The potential for results of clustered commitments should be reviewed as a whole. IRM staff follow these steps to cluster commitments:

   a. Determine overarching themes. If the action plan is not already grouped by themes, IRM staff may use OGP's thematic tagging as reference.
   b. Review commitment objectives to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
   c. Organize commitments into clusters as needed. Commitments may already be organized in the action plan under specific policy or government reforms.

Step 4: Assess the <u>potential for results</u> of the clustered or standalone commitment.

Filtering is an internal process. Data for individual commitments is available in Annex 1. In addition, during the internal review process of this product, the IRM verifies the accuracy of findings and collects further input through peer review, OGP Support Unit feedback as needed, interviews and validation with country stakeholders, an external expert review, and oversight by IRM's International Experts Panel (IEP).

As described earlier, IRM relies on **three key indicators** for this review:

I. Verifiability

- **Yes, specific enough to review:** As written in the action plan, the stated objectives and proposed actions are sufficiently clear and include objectively verifiable activities to assess implementation.
- **No, not specific enough to review:** As written in the action plan, the stated objectives and proposed actions lack clarity and do not include explicitly verifiable activities to assess implementation.
- Commitments that are not verifiable will be considered not reviewable, and further assessment will not be carried out.

II. Open government lens

This indicator determines if the commitment relates to the open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration and the OGP Articles of Governance by responding to the following guiding

questions. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institution, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP values as defined in the Articles of Governance. In addition, the following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will the government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable legal, policy, or institutional frameworks to foster accountability of public officials?

III. Potential for results

The IRM adjusted this indicator—formerly known as the "potential impact" indicator—to take into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, the IRM modified this indicator to lay out the expected results and potential that would be verified in the IRM Results Report after implementation. Given the purpose of this Action Plan Review, the assessment of potential for results is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** A positive but standalone initiative or change to processes, practices, or policies. The commitment does not generate binding or institutionalized changes across government or institutions that govern a policy area. Examples are tools (e.g., websites) or data release, training, or pilot projects.
- **Substantial:** A possible game changer for practices, policies, or institutions that govern a policy area, public sector, or the relationship between citizens and state. The commitment generates binding and institutionalized changes across government.

This review was prepared by the IRM in collaboration with Ben Burmeister and was reviewed by external expert Andy McDevitt. The IRM methodology, quality of IRM products, and review process are overseen by IRM's IEP. For more information, see the IRM Overview section of the OGP website.[1]

All interviewees agreed that information received would not be attributed to specific individuals to create a more open environment for conversation. References are therefore listed with

general reference to affiliated organizations. For the same reasons, interviews were not recorded but captured through extensive notetaking.

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[1] "IRM Overview," Open Government Partnership, https://www.opengovpartnership.org/irm-guidance-overview.

Annex 1. Commitment by Commitment Data[1]

Commitment 1: Transparency Act
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 2: Arms export database
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 3: PPP transparency guidelines
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 4: Report on the convergence of living standards
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 5: Foreign policy citizen dialogues
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 6: Dialogue network for sustainable agriculture
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 7: National Action Plan Opportunities for Children
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: modest

Commitment 8: National Action Plan and Forum Homelessness
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 9: Data-based value-added services in public procurement
- Verifiable: Yes
- Does it have an open government lens? Yes

- Potential for results: Modest

Commitment 10: Data cube environment

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 11: Implementation recommendation SDGs in legislation

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 12: Berlin budget data as linked open data

- Verifiable: Yes
- Does it have an open government lens? Yes
- This commitment has been clustered as: Linked Open Data (Commitments 12, 13, and 14 of the action plan)
- Potential for results: Substantial

Commitment 13: Visualization of municipal and Land budget data

- Verifiable: Yes
- Does it have an open government lens? Yes
- This commitment has been clustered as: Linked Open Data (Commitments 12, 13, and 14 of the action plan)
- Potential for results: Substantial

Commitment 14: Publicly available data as linked open data

- Verifiable: Yes
- Does it have an open government lens? Yes
- This commitment has been clustered as: Linked Open Data (Commitments 12, 13, and 14 of the action plan)
- Potential for results: Substantial

Commitment 15: Digital building applications

- Verifiable: Yes
- Does it have an open government lens? No
- Potential for results: Unclear

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[1] **Editorial notes:**
1. For commitments that are clustered, the assessment of potential for results is conducted at the cluster level, rather than the individual commitments.
2. Commitment short titles may have been edited for brevity. For the complete text of commitments, see "Germany Action Plan 2023–2025," Open Government Deutschland, 31 August 2023, https://www.opengovpartnership.org/documents/germany-action-plan-2023-2025.

Annex 2: Action Plan Co-Creation

OGP member countries are encouraged to aim for the full ambition of the OGP Participation and Co-Creation Standards that came into force on 1 January 2022.[1] The IRM assesses all countries that submitted action plans from 2022 onward under the updated standards. Table 2 outlines the extent to which the countries' participation and co-creation practices meet the minimum requirements that apply during development of the action plan.

OGP instituted a 24-month grace period to ensure a fair and transparent transition to the updated standards. Action plans co-created and submitted by 31 December 2023 fall within the grace period. The IRM will assess countries' alignment with the standards and their minimum requirements.[2] However, countries will only be found to be acting contrary to process if they do not meet the minimum requirements for action plans co-created in 2024 and onwards.

Please note that, according to the OGP National Handbook, countries implementing four-year action plans must undertake a refresh process at the two-year mark. Countries are expected to meet minimum requirements 3.1 and 4.1 during the refresh process.[3] IRM assessment of the refresh process will be included in the Results Report.

Table 2. Compliance with minimum requirements

Minimum requirement	Met during co-creation?	Met during implementation?
1.1 Space for dialogue: The Open Government Network (OGN), an informal network of non-governmental stakeholders who work on transparency, open data, and technology-related issues in Germany,[4] continues to serve as a main interlocutor between civil society and the government point of contact. Only a small portion of OGN members is actively involved in the OGP process and the point of contact participates in the monthly OGN calls on an *ad hoc* basis.[5] The co-creation timeline, published on 25 April 2023, provided the OGN with basic rules of participation for the action plan co-creation. In addition, Germany's OGP webpage includes an overview of how stakeholders can participate in the OGP process.[6]	Yes	*To be assessed in the Results Report*
2.1 OGP website: The Federal Chancellery runs a website with information on Germany's OGP process, documentation of previous action plans, and monitoring commitments from the current action plan,[7] which is updated at least every six months.	Yes	*To be assessed in the Results Report*
2.2 Repository: All draft versions of the action plan, consultation submissions, and responses to stakeholders' feedback for present and past action plans are available on a repository.[8] Updates on commitment implementation are made on the website, which was last updated in January 2024.[9]	Yes	*To be assessed in the Results Report*
3.1 Advanced notice: The government point of contact informed the OGN that the action plan would be developed from spring to summer 2023. The point of contact published a timeline for participation on the OGP website on 25 April 2023, alongside the first outline of proposals on initiating the first consultation round (25 April 2023–12 May 2023).[10] On 9 May	Yes	Not applicable

2023, the Federal Chancellery hosted the first discussion between the ministries involved in the action plan and interested OGN members.[11] The second round of consultation was supposed to be held in May–June 2023 but was postponed to 24 July–6 August 2023.[12]		
3.2 Outreach: Participation opportunities were shared on personal social media of the government point of contact,[13] in a newsletter, and on the government website.	Yes	Not applicable
3.3 Feedback mechanism: The proposed list of commitments was determined by the government point of contact in discussion with the federal ministries.[14] The list of commitments was open for public consultation in two stages. From 25 April to 12 May 2023, civil society could comment on the commitments proposed by the federal government. From 24 July to 6 August 2023, the draft action plan was open for comments.[15] Due to delays, the second consultation period was held in the summer, which limited the opportunity for some OGN members to participate due to lack of personnel.	Yes	Not applicable
4.1 Reasoned response: During the informational event held during the first consultation period, civil society discussed the proposed commitments with the responsible ministries and received responses to their questions and comments.[16] The government point of contact provided a brief written response on 31 August 2023, the same day as the publication of the final action plan.[17] The response met the standard but did not give detailed information on why no changes were made to the commitments. Instead, the response states that the comments were received by the ministries and will be taken into consideration without further detail. OGN members expressed uncertainty as to how their feedback impacted the action plan.	Yes	Not applicable
5.1 Open implementation: The IRM will assess whether meetings were held with civil society stakeholders to present implementation results and enable civil society to provide comments in the Results Report.	Not applicable	*To be assessed in the Results Report*

While the co-creation process of Germany's fourth action plan met the minimum requirements under OGP Participation and Co-creation Standards, civil society participants did not feel like their participation helped shape the action plan. The decisions of which commitments to include in the action plan were made primarily in internal government discussions. The two consultation rounds were held after the government had decided on a list of commitments and the comments from civil society did not lead to significant changes to the commitments or the addition of new commitments.[18] Moreover, interviewed OGN members felt that the timeframe for participation was too short for them to adequately respond to the outline of proposals and propose their own commitments. According to interviewed OGN members, the limitations of co-creation (in this and for past action plans) has reduced their interest in the OGP process since Germany joined OGP.

As recommended in the IRM Co-Creation Brief 2022, Germany's OGP process could benefit from formalizing its participation structure.[19] The United Kingdom and Slovak Republic provide good examples of participation in the absence of a formal multistakeholder forum (MSF).[20] In Germany, Hamburg has instituted an MSF through its participation in the OGP Local program,

which was evaluated positively by one interviewed OGN member.[21] Moreover, the IRM recommends reaching out to civil society with specific thematic expertise earlier in the co-creation process. In the fourth action plan, experts in fields not featured in past OGP action plans, like arms exports, only became aware of the opportunity to participate two days before the end of the second consultation round, which limited their involvement.[22]

To improve the co-creation process, the IRM recommends the following steps:

- **Institutionalize the co-creation process and reach out to stakeholders with expertise in relevant priority areas**. The OGP process is commonly perceived as an additional burden by public bodies and civil society. A formal multistakeholder forum could serve as core participatory channel around OGP action plans. Civil society and public bodies could collectively determine the priorities for the action plan and reach out to stakeholders outside the OGN working on thematic areas related to commitment proposals. This might require starting the co-creation process at an earlier stage and additional funding for organizational activities from civil society.
- **Give stakeholders with more advanced notice before the start of the co-creation process**. OGN members found the timespan for the co-creation process too short, with the second consultation round delayed into summer (a common holiday season). The consultation timeline should be communicated to stakeholders well in advance to enable better preparation and could ideally be developed collaboratively.
- **Provide detailed response to stakeholders on how their comments were considered by the implementing agencies**. Reasoned response should be given to stakeholders prior to the finalizing the action plan and should include an explanation of which proposals were integrated or disregarded and for which reasons. For the previous action plan, the government point of contact provided a detailed response to stakeholders on how their proposals were considered.[23] The IRM recommends returning to this practice for future action plans, if the level of specificity of the feedback and proposals warrants it.

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[5] Open Government Deutschland Point of Contact, interview by IRM researcher, 29 January 2024; Open Government Network members, interviews by IRM researcher, 24 January 2024.
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[7] "Vierter Nationaler Aktionsplan," [Fourth National Action Plan], Open Government Deutschland, https://www.open-government-deutschland.de/opengov-de/ogp/aktionsplaene-und-berichte/4-nap.
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[14] Open Government Deutschland Point of Contact, interview.

[15] "Dokumentation 2023," Open Government Deutschland.

[16] "Ergebniszusammenfassung Multistakeholder-Gespräch zum 4. Nationalen Aktionsplan," [Summary of results of the multi-stakeholder discussion on the 4th National Action Plan], Open Government Deutschland, 9 May 2023, https://www.open-government-deutschland.de/resource/blob/1567548/2191038/b346e82aef87e21e329e0613c84f2851/protokoll-ogp-09mai2023-data.pdf.

[17] "Betreff: 4. Nationaler Aktionsplan Open Government Partnership," [Subject: 4. National Action Plan Open Government Partnership], Open Government Deutschland, 31 August 2023,https://www.open-government-deutschland.de/resource/blob/1567548/2216932/e7e8612b4329a48f3afdd3017bebc1e8/reasoned-response-nap4-data.pdf.

[18] "Betreff: 4. Nationaler Aktionsplan Open Government Partnership," Open Government Deutschland.

[19] "IRM Co-Creation Brief: Germany 2022," Open Government Partnership, 2 December 2022, https://www.opengovpartnership.org/wp-content/uploads/2022/12/Germany_Co-Creation-Brief_2022.pdf.

[20] "IRM Co-Creation Brief: Germany 2022," Open Government Partnership, p. 3.

[21] "Action Plan: Hamburg, Germany 2022–2024," Senate Chancellery of the Free and Hanseatic City of Hamburg, 30 November 2022, https://www.opengovpartnership.org/documents/action-plan-hamburg-germany-2022-2024.

[22] Aktion-Aufschrei-Stoppt den Waffenhandel, interview by IRM researcher, 26 January 2024.

[23] "Rückmeldung der Bundesressorts zu neuen Vorschlägen aus dem Konsultationsprozess zur Erarbeitung des dritten Nationalen Aktionsplans," [Feedback from the federal departments on new proposals from the consultation process to develop the third national action plan], Open Government Deutschland, 29 July 2021, https://www.open-government-deutschland.de/resource/blob/1591100/1946966/6ec61f3c3ce482c8d7912fcabc0ba9d1/response-nap3-data.pdf.

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