

Proposal to involve the federal states and municipalities in the national OGP process

By submitting the letter of intent in December 2016 and drawing up the first National Action Plan (NAP) Germany participates in the Open Government Partnership (OGP). In Bundesrat decision 462/15 of 6 November 2015, the federal states also called on the Federal Government to join the OGP. The first NAP, adopted on 16 August 2017, focuses on measures by the Federal Government. According to the decision of the IT Planning Council (IT-PLR)¹ of 22 March 2017, a strategy to involve the federal states and municipalities in the national OGP process will be developed and implemented within the framework of the second NAP. The OGP does not prescribe how to take different government levels into account.

(1) The basic principle

Participation in the OGP means that every two years, National Action Plans (NAP) with specific commitments must be produced within the framework of a pre-announced, transparent and participatory process (public participation). Reporting ensures a high degree of commitment and the constant improvement of the process and results. At all government levels, the processes to draw up commitments must fulfil the same OGP requirements of transparency and participation.

The most important OGP element is the “co-creation” process of the NAP to build trust between administration and civil society. This is why only those commitments by federal, state or municipal governments can be considered that are the result of a participatory process in line with OGP criteria and have been specifically developed for the OGP process.

(2) Definition and responsibilities

Open Government is a cross-cutting principle and therefore an issue for which there are no uniform responsible steering bodies. For this reason, measures are taken independently by the federal states and municipalities on the basis of the framework conditions laid down by the Federal Government and the OGP. Participation in the national OGP process is voluntary.

To use synergies and avoid interference with other authorities' competences, existing networks, processes and bodies at the relevant government levels can be used for the OGP process.

(3) Development of the NAP

The NAP has two parts: One chapter with the introduction and the commitments by the Federal Government. This chapter is subject to a decision by the Federal Cabinet. The other chapter consists of the commitments by the federal states and municipalities. The federal states are exclusively responsible for the content and the commitments in this chapter. The federal states' chapter is sent to the Federal Government for inclusion in the NAP via the IT Planning Council, which, in its capacity as a joint body of the Federal Government and the federal states, serves as a communication channel between the different government levels.

¹ Cf. www.it-planungsrat.de/SharedDocs/Sitzungen/DE/2017/Sitzung_22.html (only available in German)

The Federal Government is accountable for the NAP at international level and vis-à-vis the OGP. The Federal Ministry of the Interior, Building and Community is responsible for publications, translations, monitoring and the overall coordination of OGP participation.

(4) Quantitative limitation

The OGP recommends that, beginning in 2018, participating countries cap the number of commitments per NAP to 20 (with a maximum of five milestones per commitment).² The intention is to encourage credible implementation of relevant and ambitious NAPs.

For this reason, the Federal Ministry of the Interior, Building and Community will accept a maximum of 15 commitments from those developed by the federal states (including municipalities) in line with OGP requirements and transmitted via the IT Planning Council as the “federal states’ chapter”.³

(5) Requirements

a) General OGP requirements concerning the development of NAP commitments:⁴

- Commitments must be drawn up in cooperation with civil society within the framework of a public consultation process.
- Countries are to make the details of their public consultation process and timeline available prior to the consultation and consult a broad spectrum of stakeholders.
- Countries are to consult through a variety of mechanisms – including online and through in-person meetings.
- The transparency of the procedure must be ensured by documentation of the public consultation, its participants and the results.
- The exchange between administration and civil society should continue during implementation.

Formal aspects:

- Commitments must be specific, measurable, ambitious, relevant and time-bound and must follow the OGP templates.⁵
- The NAP (the chapters by the Federal Government and the federal states) is subject to reporting requirements (monitoring, self- and third-party evaluation).
- Commitments must coincide with the NAP’s implementation period and are developed in line with the OGP timetable to be included in the NAP.

b) Qualitative criteria

In addition to the OGP requirements, the NAP commitments should also

- serve as a model at international level (representing Germany as a whole) or be of international interest,
- serve as a model or be relevant at national level or generate supraregional (ideally national) effects,

² Cf. the Decision of the Steering Committee on the “Commitment Cap”, September 2017 (page 5) www.opengovpartnership.org/sites/default/files/SC-Meeting-Minutes_September2017.pdf

³ If more commitments are developed than can be included, it is possible to present and acknowledge them on a digital project map on the interior ministry’s planned OGP website.

⁴ The current versions of the Articles of Governance, the Point of Contact Manual and the Participation and Co-Creation Standards generally apply.

⁵ Cf. the Point of Contact Manual p.26 et seqq. www.opengovpartnership.org/resources/point-of-contact-manual-2017

- include various stakeholders (business, civil society, academia, administration/authorities/organizational units) cooperating in the implementation,
- implement a clearly ambitious reform which addresses political and social challenges with the help of open government (strategic component of open government),
- promote a progressive and technology-neutral or comprehensive understanding of open government, e.g. through broad and high-ranking political support,
- focus on impact, e.g. by conducting ex ante and ex post analyses or accompanying academic research.

(6) Obligations

A commitment in the NAP also includes the obligation to cooperate with the OGP Independent Reporting Mechanism (IRM) and monitoring by the Federal Ministry of the Interior, Building and Community.

(7) Knowledge management and communication

If, within the framework of the participatory procedures, ideas are developed which affect other government levels, they can be transmitted to the competent authorities for further use. The OGP website to be set up by the Federal Ministry of the Interior, Building and Community will provide information on all events, content, results etc. throughout Germany, e.g. by providing links to local consultation procedures or interim results. The Federal Ministry will communicate deadlines and contacts at a joint kick-off event in autumn 2018 at the latest.

(8) Sources and additional information

- Open Government Subnational Declaration, Paris 2016: www.opengovpartnership.org/sites/default/files/OGP_subnational-declaration_EN.pdf
- Open Government Partnership 2017: What's new in the OGP Subnational Action Plans: www.opengovpartnership.org/sites/default/files/OGP_SNAP-Report_2017.pdf
- Subnational Governments and the Open Government Partnership: Issues and Options Paper. July 2015 (OGP Steering Committee): www.opengovpartnership.org/sites/default/files/Subnational-Governments-and-the-Open-Government-Partnership.docx
- Decision of the IT Planning Council 2017/02 (only available in German): www.it-planungsrat.de/SharedDocs/Sitzungen/DE/2017/Sitzung_22.html?nn=6848410&pos=2
- Resolution by the German Bundesrat on the accession of the Federal Republic of Germany to the international Open Government Partnership initiative. Printed document 462/15 (only available in German): [www.bundesrat.de/SharedDocs/drucksachen/2015/0401-0500/462-15\(B\).pdf](http://www.bundesrat.de/SharedDocs/drucksachen/2015/0401-0500/462-15(B).pdf)
- OGP Participation and Co-Creation Standards: www.opengovpartnership.org/ogp-participation-co-creation-standards
- OGP Guidance for National Dialogue: www.opengovpartnership.org/sites/default/files/attachments/OGP_consultation%20FINAL.pdf
- OGP Point of Contact Manual 2017: www.opengovpartnership.org/resources/point-of-contact-manual-2017
- OGP Articles of Governance: www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf
- Information on OGP including the OGP brochure: www.opengovpartnership.org/about/about-ogp

IT Planning Council Decision 2018/18 (made at its 25th session of April 16, 2018):

1. The IT Planning Council endorses the Federal Government's proposal to involve the federal states and municipalities in the national OGP process and welcomes the fact that the proposal gives the cross-cutting nature of "open government" appropriate consideration.
2. The states are invited to contribute to the next national action plan according to the principles and parameters laid down therein.
3. The IT Planning Council asks the Federal Government to assess to what extent joint or existing IT solutions can be used for required communication and consultation tasks.
4. The federal states are requested to enable the participation of districts, cities and towns, municipalities, regions and other entities in the national OGP process.