OPEN GOVERNMENT AND THE EU
From Commitments to Action

SUMMARY AND RECOMMENDATIONS

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SUMMARY

"Open minds, open societies, and increasingly open systems of government and governance. On the latter, the European Commission aims to lead the way"[1]

First Vice-President Timmermans

Governments cannot rely on public support – they must earn it. In an age of individualism, scepticism and growing nativist populism, they need to prove their legitimacy every day. The EU institutions lack the immediacy of local government, which can change things at the end of your street. They lack the deep social and historical roots of national governments. They therefore need to build legitimacy through their actions. In part this means effectiveness - being seen to take action that benefits citizens and communities. Equally important is openness - that the action taken is transparent, that institutions are accountable and people feel able to involve themselves in decisions that affect their lives.

This report is about openness. It looks at current open government initiatives, at the international Open Government Partnership (OGP) and the experiences of three member states. It makes recommendations on how the EU could better celebrate its current open government work, and go further by working with the OGP, and building a new support network for open government in Brussels and beyond.

Chapter 2 looks at the Open Government Partnership. Based on the three pillars of transparency, accountability and participation, the OGP is a voluntary international initiative that aims to secure concrete commitments relating to transparency, accountability and participation from over 70 participating governments, including 21 EU member states. Working in partnership with civil society within their country, every country that joins has to develop a 'National Action Plan' containing commitments to making government more open.

Chapter 3 considers open government in the EU context. As EU institutional responsibilities have expanded over time, the EU has taken on more attributes of a government. In parallel, as with other governments, calls for greater openness and transparency have increased. Periodic initiatives, such as the 2001 White Paper on governance and Plan D have moved the conversation on openness forward without making a deep shift in organisational culture. Recent speeches and events suggest that there is potential for new initiatives, reflecting changing political and social attitudes. But we believe that rhetorical commitments, while welcome, must now become practice. To fail to do so after such public statements by EU leaders would further undermine the EU project.

Chapters 4-7 consider the EU's work in the three pillars of open government. The different institutions have all made commitments of varying strength to the ideals of open government. We identify a large number of projects and initiatives which further these aims – though they are often not gathered and presented as "open government". Often the EU is backward in presenting its strengths.

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[1]   https://www.opengovpartnership.org/trust/trust-times-of-intense-scrutiny

Initiatives we consider under the rubric of open EU governance include legislation to ensure the right to access documents used within the three main institutions, the use of online profiles for Members of the European Parliament showing their contributions in parliamentary sessions, codes of conduct for civil servants, MEPs and Commissioners, and legislative transparency and opportunities for citizens and other stakeholders to share their views on these earlier in their development.

We find many good initiatives, but also a high degree of disconnection, which reduces impact. Instances where work crosses institutional boundaries, such as the Transparency Register, are rare. The European Union Open Data portal, which contains just over 10,750 data sets, contains fewer than 100 published by an organisation other than the Commission. Whether because institutions do not embrace the work of others, or because they are simply not aware of it, this creates a duplication of effort. A good example is the multiple sites through which a citizen or individual might view legislative activity with EU institutions, including the Parliament's Legislative Train and Legislative Observatory websites, the Commissions 'Track Law Making' site, and EUR-Lex. These are good initiatives, but would be stronger if they existed within a single and recognisable place to see progress on law-making.

There is a need to move from a model of individual initiatives, where much of the work is carried out in siloes as single projects, to one supported by a clearer strategy, explained through a clear narrative and driven by leadership at the highest level. This would help ensure actions were better joined up between and within institutions, and encourage innovation by positioning open government as a clear institutional value.

While the EU has multiple initiatives on transparency and accountability, it has a mixed record on the third pillar, participation. Institutional actors will often claim that this is an area of progress, but that claim is rarely heard outside the institutions. This is for reasons of scale, complexity as well as institutional history. Recent high-level initiatives such as the Better Regulation Package and innovations such as Futurium and Doris have moved this agenda on. The institutions all have participative elements to their work. The Commission's work on stakeholder engagement, given a new focus through the better regulation initiative, is a positive development. We show that the EU institutions need to embed more and better engagement throughout the policy-making cycle, not just at a "consultation moment", and to go beyond traditional well-informed or well-connected participants into broader audiences within Brussels and beyond. Progress on this work will involve developing organizational cultures of engagement and openness, building networks that create broader routes to citizens, and putting policy structures and processes in place that involve public engagement from an early stage.

Chapter 7 looks at the experience of three member states as members of the Open Government Partnership, the UK, Estonia and Romania. One of the most valuable attributes of the OGP is to act as a focus for open government activity both inside and outside government. Inside government it acts as a convening point for reformers in different departments and ministries, and helps to build networks that can share learning and expand the reach of ideas. Externally it is as a useful framework for civil society organisations to come together, exchange information and coordinate their policy and campaigning strategy.

Crucially, the OGP process helps to bring together these two groups of reformers, and helps to build relationships between civil society and government leading to greater levels of reciprocal trust – both civil society's trust in government and government trust in civil society – as well as helping each to develop a deeper understanding about how the other operates. Against that, there is a risk that these relationships become too cosy, and that conversations on open government restrict themselves to technical issues being discussed among specialists, rather than making a real difference to politics and government as citizens experience them.

Chapter 8 considers the options for EU membership of the OGP. There have been a number of calls for the EU and OGP to develop a deeper relationship - including calls from some quarters for the EU to join the OGP. The EU is not technically eligible for membership of the OGP, as it does not have a Head of State, however there are existing models of partnership between the EU and OGP that could be adapted and extended to fit the EU's unique situation.

Finally, we make a set of recommendations as to how existing good work could be celebrated and spread, and how the EU could go further in partnership with OGP. These recommendations are set out in detail below, but in summary they recommend the EU build a partnership with the OGP and with an informal network of stakeholders who commit to the ideal of open government in Brussels and beyond. OGP has effective models of how such a network would come together and itself remain open, transparent and accountable. Through our interviews we have found many people inside and outside the institutions who are committed to driving forward the open government agenda in Europe, working to ensure the EU institutions become more transparent and accountable, and making greater participation a reality. Institutions, organisations and individuals inside and outside Brussels share this commitment, and show that the partnership and network that can join committed civil society and stakeholders has a real chance of success.

RECOMMENDATIONS

We believe that the time is right for the EU to make a strong commitment to practical action on its own approach to open government. This is in line with existing commitments such as the Commission President's priority on the Union of Democratic Change[2]. It supports the ambitions of the 2017 State of the Union speech[3], First Vice-President Timmermans' recent essay on Trust in Times of Intense Scrutiny[4], and other recent political initiatives,[5] all of which aim to show citizens that, in the recent words of President Macron, "Brussels is us, always, at every moment".[6]

Our recommendations are:

1 | CHAMPION AND CELEBRATE EXISTING OPEN GOVERNMENT WORK

The EU is not short of commitments to open government (even if not always labelled as such). Some have roots as far back as the 2001 White Paper. Practical action, however, is disjointed and based on individual projects rather than consistent strategy. Creation of a clear narrative would provide impetus for further action.

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2 https://ec.europa.eu/commission/priorities/democratic-change_en
3 https://ec.europa.eu/commission/state-union-2017_en
4 https://www.opengovpartnership.org/trust/trust-times-of-intense-scrutiny
5 https://ec.europa.eu/commission/sites/beta-political/files/white_paper_on_the_future_of_europe_en.pdf
6 http://www.elysee.fr/declarations/article/initiative-pour-l-europe-discours-d-emmanuel-macron-pour-une-europe-souveraine-unie-democratique/

To create this narrative, the institutions must see and celebrate what is already happening. At present, open government related work in the Commission takes place in several Directorates-General, and different teams within the same DG. Creating a single narrative that connects these different pieces of work will support the delivery of every initiative, by placing it in context and demonstrating that it is part of an organisation-wide move towards open government.

Based on the research in this report, and their own resources, the Commission should create a clear declaration of principles on open government that marshal its different commitments and work programmes on open government. It should increase public awareness of this work through a specific programme of celebration, such as internal or public openness awards.

2 | CREATE A EUROPEAN OPEN GOVERNMENT NETWORK

The Open Government Partnership model at national level is based on a partnership between government and civil society. The EU level has a network of different independent institutions interacting with a large number of stakeholders at local, national and European level.

The OGP provides a well-tested model for convening and involving such a wide range of interested parties. It also echoes the EU's long tradition of working through forums and multi-stakeholder arrangements. Our research has shown strongly that a principal benefit of the OGP has been the opportunity for better connections with and between government institutions and civil society, and this should be the main goal of the network. A European open government network would provide a significant benefit to the EU. It would enable more effective transfer of knowledge and ideas, and a space to discuss initiatives and promote better open government.

An open government network for Europe needs to be broad and inclusive, bringing institutional actors and civil society organisations together with other stakeholders. The institutions need to make a commitment to engage. Civil society and funding organisations need to make the commitment of resources, time and attention that will create the network and make it a success.

Civil society organisations, the Institutions and other stakeholders should create an informal EU open government network, open to all. As with the examples at national level, this network should be facilitated by a core group, with membership from key organisations with a stated commitment to open government, and a track record, roots and connections beyond Brussels to ensure that this issue is understood from the perspective of Europe's citizens not just as a technical or policy issue. OGP prides itself in being apolitical, working with governments of all political stripes as long as they maintain a commitment to the standards for membership. As such it bridges the electoral cycle and is not a platform for political parties.

3 | WORK IN PARTNERSHIP TO CREATE AN ACTION PLAN

The European Commission, and other interested institutions, should create a close partnership with the OGP, drawing on and extending the partnership model the OGP already uses with other international institutions. The partnership should have a double focus – both on internal actions and the institutions' work in the wider world.

In parallel with the establishment of this partnership, **the Commission and other interested institutions should work through the European open government network to create a two-year open government action plan** on the model of the national action plans drawn up under the OGP, that can start to be implemented during 2018.

The action plan should be founded on the basis of existing good work in the European institutions and elsewhere. In our own country research, research into the current state of open government, and through interviews, we have identified several initiatives that could be beneficial if taken to European level, and meet an apparent gap in current practice. These are found in '*Scope for further action*'.

The action plan should be co-created with the European open government network, and seek suggestions from citizens and stakeholders. In some member states, partnerships have generated open government ideas through an open participative process. If done well, this could draw attention to the importance of open government as a new agenda, and start to create the networks of participation and trust on which successful implementation of open government depends.

The action plan should be broad and ambitious, reflecting key declarations such as the Paris Declaration of the Open Government Partnership[7] and the recent Guidelines for Civil Participation in Political Decision Making, issued by the Council of Europe[8].

The action plan should acknowledge and reinforce the essential role of Europe in driving the technological, governmental and social reforms that support open government, and in championing openness, democracy and rule of the law in its region.

Institutional and non-institutional network members should work together to create a single action plan, or action plans for all interested institutions, and agree open shared governance arrangements for the plan that are in line with OGP good practice.

4 | CONNECT TO ACTION BEYOND BRUSSELS

The European open government network described above should have as one of its goals the linking of innovation and open government work at European, national and local level, through existing channels and by building new ones.

This connection should be broad and open, and allow organisations and individuals to participate to the extent and in the depth that they are able. Through this broader network, EU open government can reach beyond representative bodies and to citizens and organisations directly in their own media and political environments. The existence of these routes to citizens is important for work on transparency and accountability, and essential if participation in EU policies is to be broad enough to make a difference.

The initial steps to create this wider network can start quickly. Good practice examples exist through the OGP mechanisms in a number of member states, it is important that the members of the network are permitted to co-create it and to allow its work and governance to evolve organically to adapt to the challenges of policy making and networking in a multilingual, multi-country community. In this way, the network can itself be a testing ground for some of the innovation it seeks in government.

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7 https://www.opengovpartnership.org/paris-declaration
8 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807509dd

5 | SUPPORT AND DEFEND OPEN GOVERNMENT ELSEWHERE

The EU legislates in many areas where transparency is important, and the Union is an essential support for good governance in member and aspirant member states (and beyond). These recommendations relate to its legislation and external action.

Where legislation is pending on issues where transparency, accountability and participation are a significant element, for example anti-corruption or anti-money-laundering rules, **the EU should work with the OGP and relevant civil society networks to align legislation with the shared values, goals and commitments of the EU**. CSOs that operate in member states should look to secure government commitments to support this legislation at the EU level. To this end, we recommend that **EU member states who are members of the OGP should seek to include commitments in their NAPs about how they can promote the ideas and aims of openness and transparency at the EU level.**

The EU should continue to use its funding programmes to support initiatives around open government across the member states, and should seek to link them into member states' national action plans. Programmes such as Horizon 2020 and Next Generation Internet already have significant open government and open data elements, for example the project EUCROWD, funded through Europe for Citizens, looks at how technology platforms for crowdsourcing could be used in EU policy making. These initiatives would have more impact if they were better co-ordinated with national action plans and OGP networks in the member states.

A partnership between OGP and the EU should be used to advance the EU's reform goals for candidate and neighbourhood countries. For such countries, National Action Plans can be an important means of seeking speedier reforms and public support for change. The EU supports these actions where they reinforce the EU's strategic goals on democracy, transparency and the rule of law. By working together, the OGP and EU can encourage more ambition and action by providing a prestigious international platform and positive incentives for change.

The EU should work with the OGP to support the creation and execution of open government plans in developing countries, particularly on core areas of EU priorities (e.g., open budgets, open contracts, open extractives). The EU's technical, political and financial support to these countries, including specific peer exchange and expertise around e-Government, should be aligned around open government plans.

The Democratic Society

The Democratic Society (Demsoc) works for more and better democracy, where people and institutions have the desire, opportunity and confidence to participate together. We work to create opportunities for people to become involved in the decisions that affect their lives and for them to have the skills to do this effectively. We support governments, parliaments and any organisation that wants to involve citizens in decision making to be transparent, open and welcoming of participation. We actively support spaces, places and processes to make this happen.

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