

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

Germany 2017

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1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>§91 of the schedule of costs for matters of non-contentious jurisdiction for Courts and Notary's (GNotKG - Gerichts- und Notarkostengesetz)¹ provides for a reduction in notary costs for charities and religious organisations. (In August 2013, the GNotKG replaced § 144 schedule of costs (KostO - Kostenordnung)². The wording has remained unchanged.)</p>	D	<p>German legislation differentiates between charities, religious organisations and non-profit organisations. According to §91 schedule of costs (KostO - Kostenordnung),³ charities and religious organisations get a reduction of 60 % for notary costs. Non-profit organisations do not get the same privilege and have to pay the full charge.</p>
<p>Guideline on the advancement of participation of persons with disabilities and their associations in the shaping of public affairs (14 November 2016).⁴</p> <p>The Guideline regulates the funding of organisations which work for the</p>	E	<p>Since 2002, Article 19 of the Federal Equal Opportunities for Disabled Persons Act (BGG-<i>Behindertengleichstellungsgesetz</i>) provides the legal basis for state funding for measures promoting the participation of organisations of persons with disabilities in the shaping of public affairs (public affairs mainly includes policy</p>

¹ §91 Scale of Costs for Matters of Non-contentious Jurisdiction for Courts and Notary's (GNotKG - Gerichts- und Notarkostengesetz) <https://www.gesetze-im-internet.de/gnotkg/BJNR258610013.html>.

² § 144 Scale of Costs (KostO - Kostenordnung) <https://dejure.org/gesetze/KostO/144.html>

³ §91 Scale of Costs for Matters of Non-contentious Jurisdiction for Courts and Notary's (GNotKG - Gerichts- und Notarkostengesetz) <https://www.gesetze-im-internet.de/gnotkg/BJNR258610013.html>.

⁴ Germany, Federal Ministry of Labour and Social Affairs, Guideline to funding the participation of people with disabilities and there organisations in the shaping of public, 26 October 2016, Berlin: http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/richtlinie-partizipationsfoerderung.pdf?__blob=publicationFile&v=2.

<p>participation of persons with disabilities.</p>		<p>making-, and related decision making processes). On 26 October, 2016, with the aim to provide a concretisation for the funding for NGOs through §19 of the Federal Equal Opportunities Act (BGG-<i>Behindertengleichstellungsgesetz</i>) and to thereby improve the funding of NGOs, the Federal Ministry of Labour and Social Affairs published the guideline on the advancement of participation of persons with disabilities and their associations in the shaping of public affairs.</p> <p>With the aim to enable and simplify the participation of NGOs representing persons with disabilities in public affairs, the funding outlined in this guideline addresses measures which aim to improve related skills and possibilities of these NGOs.⁵ Only those NGOs which represent the interests of people with disabilities and have expressly declared this goal in their statute are funded under the guideline. In addition, funded NGOs are required to fulfil the criteria under BGG Article 15(3).</p>
<p>Guidelines to the federal programme: 'Promoting tolerance and developing expertise'.⁶ The federal</p>	<p>F</p>	<p>One of the requirements to receive funding through the federal programme: 'Promoting tolerance and developing expertise' was a so-</p>

⁵Germany, Federal Ministry of Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales*) (2016), "BMAS fördert Interessenvertretung", Press release, 15 November 2016, available at: <http://www.bmas.de/DE/Presse/Meldungen/2016/foerderrichtlinie-partizipation.html>.

⁶ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium Familie, Soziales, Frauen und Jugend*): Homepage of the federal programme "Promoting tolerance and developing expertise", available at: http://www.toleranz-foerdern-kompetenz-staerken.de/das-bundesprogramm/programmuebersicht/?no_cache=1.

<p>programme funded projects aimed at promoting civil engagement, democratic behaviour and the commitment to tolerance and diversity (2011-2014).</p>		<p>called 'Declaration of Democracy'.⁷ The declaration was a written, legally binding confirmation and guarantee, stating that the organisation applying for funding was committed to the liberal democratic constitutional structure and was not supporting extremist structures.</p> <p>The requirement was criticised due to an alleged implied general suspicion against NGOs to oppose the democratic constitutional structure.⁸</p> <p>Organisations like 'Netz-gegen-Nazis.de' (Net against Nazis) (2011) "<i>Mus und die Folgen: Ein Jahr mit der Extremismusklausel</i>", Press release, 7 October 2011, available at: http://www.netz-gegen-nazis.de/artikel/mus-und-die-folgen-ein-jahr-mit-der-extremismusklausel-8164), and the Amadeo Antonio Stiftung (Bochentín, C, Amadeo-Antonio-Stiftung, "<i>Die Extremismusklausel</i>", Berlin 2011, available at: http://www.amadeu-antonio-stiftung.de/w/files/pdfs/die-extremismusklausel.pdf) criticised the implied general suspicion of left-wing extremism. Similarly, organisations working to prevent extreme right-wing tendencies in teenagers criticised the general suspicion that their members were alleged anti-democrats (<i>Deutsche Bundesjugendring</i> (DBJR) (2012),</p>
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⁷ The Formulare, especially the Declaration of Democracy are not available through the website of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, but can be accessed through, *Die Extremismusklausel*, Bochentín, C., Berlin 2011, available at: <http://www.amadeu-antonio-stiftung.de/w/files/pdfs/die-extremismusklausel.pdf>, p. 2.

⁸ Germany, *Bundesarbeitsgemeinschaft Demokratieentwicklung* (2014), "*Extremismusklausel muss restlos gestrichen werden*", Press release, 4 February 2014: <http://demokratiebrauchtuns.de/blog/extremismusklausel-muss-restlos-gestrichen-werden/#more-786>.

		<p>„DBJR: Extremismusklausel behindert Kampf gegen Rassismus und rechte Gewalt“, Press release, 24 January 2012: https://www.jugendhilfeportal.de/jugendarbeit/artikel/dbjr-extremismusklausel-behindert-kampf-gegen-rassismus-und-rechte-gewalt/).</p> <p>Where organisations were unwilling to sign the declaration, organisations were unable to receive the funding. In 2010, the organisation AKuBitZ e.V. forwent a € 10000 advancement award by the federal state government of Saxony, because they refused to accept the requirement to sign the declaration. (Stange J., „Demokratie-Kämpfer unter Generalverdacht“, ZEIT-Online, 10 November 2010 http://www.zeit.de/politik/deutschland/2010-11/saechsischer-foerderpreis).</p> <p>The political opposition furthermore criticised the use of the terms ‘extremism’ and ‘anti-democracy’ without further specification or definition.</p> <p>The alleged implied general suspicion upset NGOs and is criticised to inhibit democratic participation. It was argued that, considering the goal to engage organisations in the fight against national socialism, the state should support NGOs instead of creating new barriers, as for example a control through the Federal Office for the protection of the constitution (<i>Bundesamt für Verfassungsschutz</i> (BfV)).</p>
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		<p>Following the change of government in 2013, the 'Declaration of Democracy' was abolished in 2014.⁹ Hence, the additional hurdle for NGOs to access funding no longer exists to the extent described above.</p> <p>Commitment to democratic principles is still demanded for selected government funding, as for example the federal programme "Solidarity through Participation". NGOs which receive funding through the programme receive a covering note with the notification of funding, which ¹⁰ obliges the organisation not to work with persons/organisations which reject the liberal democratic constitutional structure.</p>
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Case law:

On 10 November 2016, the Fiscal Court in Kassel revoked the decision of the tax office Frankfurt/Main and certified the non-profit status of Attac-Germany.¹¹ Attac-Germany is a non-governmental organisation, which, amongst other goals, promotes more effective taxation on financial incomes and big property.¹² In April 2014, the tax office Frankfurt revoked the organisation's non-profit- status, arguing that Attac-Germany followed political purposes, instead of the purposes named in their statute,

⁹ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium Familie, Soziales, Frauen und Jugend) (2014), "Bundesfamilienministerin Manuela Schwesig und Bundesinnenminister Dr. Thomas de Maizière erklären" Press release, 31 January 2014, available at: <https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/bundesfamilienministerin-manuela-schwesig-und-bundesinnenminister-dr--thomas-de-maizi%C3%A8re-erklaeren-/89300>.

¹⁰ Germany, Federal Ministry for Economic Cooperation and Development (2016), Guideline for funding of projects of importance to development , available at: http://www.schmitzstiftungen.de/wp-content/uploads/2016/04/BMZ-Foerderrichtlinien_ab_01_01_2016.pdf

¹¹ Germany, Fiscal Court (*Finanzgericht*), Kassel, 4. Senat | 4 K 179/16, Press release, 10 November 2016: https://verwaltung.hessen.de/irj/FG_Kassel_Internet?rid=HMdJ_15/FG_Kassel_Internet/su/b/a57/a5749fd4-0dcf-7517-9cda-a2ae8bad5480,,,11111111-2222-3333-4444-10000005003%26overview=true.htm.

¹² Attac-Germany (2017), http://www.attac-netzwerk.de/fileadmin/user_upload/bundesebene/attac-strukturen/Attac_profile_engl_Selbstdarst.pdf.

the latter of which were used to justify the organisation's non-profit status. The fiscal court followed the argumentation of Attac-Germany, stating that, in order to receive the non-profit-status, it was of primary importance that the purpose named in the organisation's statute was one of the purposes named under §52 Fiscal Code of Germany (AO - *Abgabenordnung*), and that the organisation adhered to these purposes. According to the fiscal court, political activities of Attac Germany were not a valid reason for the revocation of their non-profit status. Although the political activity was not amongst the purposes in line with §52 of the Fiscal Code of Germany (AO- *Abgabenordnung*),¹³ the Fiscal Code does not expressly forbid political activities in general, but rather intends that NGOs refrain from supporting political parties. The court emphasised that the organisation's political activities did not oppose to the non-profit status because they stood in the overall context of their non-profit-purpose and they were made public and transparent.

2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

Unfortunately, a complete overview of the overall amount of government funding for NGOs working in the field of human rights is not possible. The allocation of resources within the federal budget is divided thematically, and the competences for these individual thematic fields lie with the federal states. The funding of themes includes resources for NGOs and state institutions.¹⁴ The specific shares are not discernible in the federal budget. The funding is mainly implemented through the Federal Ministry for Cooperation and Development (BMZ), the Federal Ministry for the Interior (BMI), the Federal Ministry of Labour and Social Affairs (BMAS) and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

Although the budgets of the individual federal ministries include various titles which also address the funding of NGOs, it is not always unequivocally visible whether a given sum is exclusively dedicated to NGOs, or in parts dedicated to the public sector. This was also confirmed

¹³ Germany, Fiscal Code of Germany (AO - *Abgabenordnung*) (2017), §52, available at: http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0299.

¹⁴ Germany, Federal Ministry for the Interior (*Bundesministerium des Inneren*) (2017); Social Cohesion and Volunteering; http://www.bmi.bund.de/EN/Topics/Society-Constitution/Socialcohesion-Volunteering/socialcohesion-volunteering_node.html.
Germany, Federal Ministry for the Interior (*Bundesministerium des Inneren*) (2017), „Bürgerschaftliches Engagement und Ehrenamt“: http://www.bmi.bund.de/DE/Themen/Gesellschaft-Verfassung/Gesellschaftlicher-Zusammenhalt/Dialog-Buergergesellschaft/dialog-buergergesellschaft_node.html.

by the Federal Ministry for Finances (telephone call, 31 October 2017). A concrete figure of the overall budget and a display of developments between 2011 and 2016 regarding the funding of NGOs can therefore not be provided.

A reliable statement on the allocation of funds to NGOs can only be made regarding a few topics and for funding under the administration of the BMZ.

a.) Federal Ministry for Economic Cooperation and Development (BMZ):

- Budget for "Funding of economic and municipal engagement":

2016: € 228,000,000
2015: € 168,000,000
2014: € 153,000,000
2013: € 140,380,000
2012: € 140,380,000
2011: -

- Budget for "Funding of projects of importance to development":

2016: € 96,000,000
2015: € 62,311,311
2014: € 61,380,000
2013: € 61,380,000
2012: € 60,358,000
2011: € 58,000,000

On January 1 2016, the guidelines for funding of projects of importance to development were adopted. The budget in 2016 amounted to twice the amount allocated in 2011. This funding refers to development cooperation, i.e. projects and programmes implemented in developing countries. Which aims at sustained improvement of the economic, social or ecological situation of the poor in developing countries, or effectively support self-help efforts, involving target groups as partners in the process of planning and implementation. These programmes may also aim to foster the fulfilment of human rights in developing countries.

- Budget for "Appropriated financial contribution for NGOs":

2016: € 37,000,000
2015: € 37,000,000
2014: € 34,727,000
2013: € 34,216,000
2012: € 32,468,000
2011: € 31,392,000

b.) Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ):

- Budget for Project "Live Democracy"

2016: € 50,500,000

2015: € 37,767,000

"Live Democracy!" funds projects which seek to encourage democracy and prevent extremism.¹⁵ The programme operates on various levels, setting out to support projects with not only local, but also regional and supra-regional missions. Eligible for funding are pilot projects on selected phenomena of group-focused enmity and approaches to strengthening democracy in rural areas, as well as pilot projects on ways to prevent radicalisation. The programme also funds the "no hate speech"-movement in Germany.¹⁶

- Budget for "Funding of pilot projects of empowerment the civic engagement":

This subtitle was funded under the heading 'Empowerment of civil society' and was situated in the federal government budget.

2016: € 14,719,000

2015: € 3,814,000

2014: € 4,719,000

2013: € 3,519,000

2012: € 3,519,000

2011: € 8,561,000

The budget for the 'Empowerment of civil society' was increased to support civil engagement during the refugee crisis, funding the increased demand of the services and activities of NGOs, which work for and with refugees.

- Budget for "Other Permissions":

2016: € 20,800,000

2015: € 18,800,000

2014: € 18,800,000

¹⁵ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium Familie, Soziales, Frauen und Jugend*) (2017), federal programme "Live Democracy": <http://www.demokratie-leben.de/en.html>.

¹⁶ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (*Bundesministerium Familie, Soziales, Frauen und Jugend*) (2017), "Live Democracy! Active against Right-wing Extremism, Violence and Hate", May 2015, <https://www.bmfsfj.de/blob/93488/5b896c88b29c77c48fa8a33441cc4143/demokratie-leben-aktiv-gegen-rechtsextremismus-gewalt-und-menschenfeindlichkeit-englische-version-data.pdf>.

2013: € 18,800,000
2012: € 18,800,000
2011: € 18,800,000

The budget is going directly to six NGOs:

*Deutscher Caritasverband,
Diakonisches Werk der EKD,
Deutsches Rotes Kreuz,
Arbeiterwohlfahrt,
Deutscher Paritätische Wohlfahrtsverband,
Zentralwohlfahrtsstelle der Juden in Deutschland.*

The specific allocations to each of these NGOs are unknown. The budget remained close to unchanged over the last 6 years, ranging from 18.800.000€ to 20.800.000€.

c.) Federal Ministry of Labour and Social Affairs (BMAS):

- Budget for 'Funding of central facilities und Purposes from disabled sports and integration of people with disabilities':

2016: € 480,000
2015: € 442,000
2014: € 400,000
2013: € 320,000
2012: € 350,000
2011: € 257,000

- Budget for 'Allocations and funding for the social integration of people with disabilities':

The budget has increased steadily and is allocated to the *Deutsche Vereinigung für Rehabilitation e.V.*

2016: € 546,000
2015: € 536,000
2014: € 500,000
2013: € 424,000
2012: € 424,000
2011: € 406,000

- Budget for 'Other Permissions - Allocations for NGO's in limited extend':

2016: € 29,000
2015: € 28,000
2014: € 29,000
2013: € 29,000
2012: € 26,000
2011: -

d.) Federal Ministry of Justice and Consumer Protection (BMJV):

- Budget for "Allocations for national supportive measures: In the field of human rights"

2016: € 70,000
2015: € 70,000
2014: € 70,000
2013: € 70,000
2012: € 20,000
2011: € 120,000

- Budget for "Funding of projects for democratic participation and against extremism"

Since 2010, this budget funds a federal programme entitled 'Solidarity through Participation'.¹⁷ Until 2016, the programme focused on federal states in Eastern Germany, with the aim to improve a lively and democratic culture in local communities in economically underdeveloped and rural areas. The program aimed to improve the structure of civic engagement, the standard of living in rural areas and to support a democratic attitude. Since 2016, the programme has been expanded to fund projects throughout Germany. Initiatives and models which had proven to be successful in Eastern Germany were transferred to regions in Western Germany. Furthermore, various qualification opportunities were offered throughout Germany. The budget was therefore increased to an overall € 12.000.000.

2016: € 12,000,000
2015: € 5,725,475
2014: € 7,036,422
2013: € 7,500,000
2012: € 4,500,000
2011: € 6,000,000

2.2 Distribution of government funding

A clear breakdown according to activities is not provided.

¹⁷Germany, Federal Ministry for the Interior (*Bundesministerium des Inneren*) (2017), federal programme "Solidarity through Participation": <http://www.zusammenhalt-durch-teilhabe.de/ueberuns/141917/zahlen-daten-fakten>.

2.3 Restrictions (or other changes) on NGO funding from other sources

Only one of the legislative changes implemented since 2011 could be classified as a restriction to the funding for NGOs through other sources (see schedule of costs under Question 1). It can otherwise be observed, that the recognition of the non-profit status for non-governmental organisations is gaining importance. Organisations face two challenges: First, they have to acquire the non-profit status in order to profit from the benefits of this title. Second, they have to make sure to keep this title, as certain conditions can lead to the title being revoked.

The non-profit status offers numerous tax benefits under Article 51 AO.¹⁸ According to § 59 AO¹⁹ organisations are required to pursue charitable purposes in accordance with § 52 AO and have to commit to this purpose within their statute. Revenues of these organisations are exempted from corporate taxes under § 5 Abs. 1 Nr. 9 KStG, as well as from trade taxes under § 3 Nr. 6 GewStG²⁰ and property taxes under § 3 Abs. 1 Nr. 3 GrStG. The non-profit status enables organisations to issue exemption certificates which donors can claim in their income taxes.²¹ This motivates many to donate, as donations will entail tax benefits. Next to tax benefits, the non-profit status can promote public subsidies, for example in the context of the programme 'Zusammenhalt durch Teilhabe' 'Solidarity through Participation' (See above 2.1.d.)bb.).²²

The requirements to be recognized as being non-profit are listed under § 52 AO.²³ This paragraph lists 25 non-profit purposes. Only an organisation which fulfils one of these purposes is able to benefit from the status as a non-profit organization. According to §52, an organisation serves public-benefit purposes if its activity is dedicated to the altruistic advancement of the general public in material, spiritual or moral respects. Such purposes are, for example, the advancement of religion (Nr. 2) or the advancement of art and culture (Nr. 5). These strict conditions can impede access to the non-profit status.

¹⁸ Germany, Fiscal Code of Germany (AO - *Abgabenordnung*) (2017), §51, http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0299.

¹⁹ Germany, Fiscal Code of Germany (AO - *Abgabenordnung*) (2017), §59, http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0299.

²⁰ Germany, Trade Tax Law (GewStG- *Gewerbsteuergesetz*) (2017), § 3: http://www.gesetze-im-internet.de/gewstg/_11.html.

²¹ Germany, Income Tax Act (EstG – *Einkommenssteuer*) (2017), §10 Subsection b) https://www.gesetze-im-internet.de/estg/_10b.html.

²² Germany, Federal Ministry for the Interior (*Bundesministerium des Inneren*) (2017), Guideline for Funding through the federal programme "Solidarity through Participation", available at: <http://www.zusammenhalt-durch-teilhabe.de/foerderung/>.

²³ Germany, Fiscal Code of Germany (AO - *Abgabenordnung*) (2017); § 52, http://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p0299.

While, under Article 52, NGO's have only 25 options to get the benefit, there are more than 25 activities, which can be dedicated to the altruistic advancement of the general public in material, spiritual or moral respects. For example, there is no specific category to cover the causes of organisations representing and promoting the interests of the LGBTI-community. The only option for these organisations to receive the non-profit status is to confirm in their statute that they follow the purpose of §67 of the Fiscal Code of Germany, which is to work for the combating of illnesses and epidemics. As a consequence, homosexuality is put on a level with illnesses.

Non-profit organisations undergo regular checks through tax offices. This includes having to prove that the purpose under § 52 AO continues to be met. It is often the case that political activities of the organisations lead to problems during these checks. The influence of the political decision making process or the support for a political party is not in conformity with the purposes under § 52. Worst case, the political orientation of an organisation can result in the revocation of the non-profit status. For example, in 2014, the non-profit status of Attac-Germany was revoked (see above). Although **the utilisation decree to the Fiscal Code of Germany**²⁴ does not specifically exclude organisations having an impact to the political decision making process, the tax office can nevertheless revoke the non-profit status if the political decision making process is the only purpose envisioned by the organisation.²⁵ Further examples for the problematic situation regarding the organisation's difficulties of maintaining the non-profit status can be found regarding the participation and/or call for demonstrations or public petitions.²⁶ This was especially relevant for environmental organisations (e.g. Greenpeace). According to the principles outlined above, tax offices now recognise that organisations can engage in these kinds of political activity. More general political activities are however not covered by this principle.²⁷

²⁴ Germany, Federal Ministry of Finance (*Bundesfinanzministerium*) (2017), The utilisation decree to the Fiscal Code of Germany, available at: http://www.bundesfinanzministerium.de/Content/DE/Downloads/BMF_Schreiben/Weitere_S teuerthemen/Abgabenordnung/AO-Anwendungserlass/2014-01-31-Neubekanntmachung-AEAO.pdf;jsessionid=4500E06006BD75F409FD52EAFDF296?_blob=publicationFile&v=3

²⁵ Krennerich, M. (2016), „Schutz von Menschenrechtsverteidigern“; *Deutscher Bundestag Ausschuss für Menschenrechte und humanitäre Hilfe, Öffentliche Anhörung*, 28 September 2016 Berlin, available at: http://www.bundestag.de/blob/485900/ae464616be573f38d118c16faafc8cb6/stellungnahme_krennerich-data.pdf.

²⁶ Germany, *Allianz Rechtssicherheit für politische Willensbildung*, (22 February 2017) <http://www.zivilgesellschaft-ist-gemeinnuetzig.de/beispiele-fuer-gemeinnuetzigkeitsprobleme/>.

²⁷ Oeser, A (2016), „Maulkorb für Attac“, *Blätter für deutsche und internationale Politik*, 6. Edition 2016, pp. 17-20.

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
Policy to the legislative procedure of the Federal Participation Law	<p>Federal Ministry of Labour and Social Affairs (<i>Bundesministeriums für Arbeit und Soziales</i>)(2014): Press release "In der AG Bundesteilhabegesetz vertretene Mitglieder und Institutionen", 7 July 2014, available at: http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Presemitteilungen/2014/2014-07-10-arbeitsgruppe-bundesteilhabegesetz.pdf?__blob=publicationFile&v=2</p> <p>Germany, Network of 51 NGOs which participate the legislative process in the working group "Federal Participation Law" (2016) : http://www.teilhabege setz.org//pages/mitmachen/verbaende.php</p>	<p>The new Federal Participation Law is part of the coalition agreement and runs under the heading 'Not about us – without us'. Persons with disabilities and NGOs representing their interests were involved in the legislative process. In April 2014, the Federal Ministry of Labour and Social Affairs invited non-governmental organisations to participate in nine sessions preparing the new Federal Participation Law. A working group of 51 NGOs was established. After the consultation in the working group, the working papers were revised by the Federal Ministry of Labour and Social Affairs. In April 2016, a ministerial draft bill was submitted to NGOs, with the possibility to comment between 26 April, 2016 and 18 May, 2016. The Federal Ministry of Labour and Social Affairs has continued to offer NGOs more and more possibilities to participate in legislative procedures.</p>
Guideline on the advancement of participation of persons with disabilities and their associations in	Germany, Federal Ministry of Labour and Social Affairs (<i>Bundesministerium für Arbeit und</i>	On 26 October 2016, with the aim to provide a concretisation for the funding for NGOs through § 19 of the Federal Equal Opportunities Act

<p>the shaping of public affairs (14 November 2016).²⁸</p>	<p><i>Soziales</i>)(2016), Guideline to funding the participation of people with disabilities and their organisations in the shaping of public affairs, 26 October 2016 Berlin : http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/richtlinie-partizipationsfoerderung.pdf?__blob=publicationFile&v=2</p> <p>Germany, Federal Ministry of Labour and Social Affairs (<i>Bundesministerium für Arbeit und Soziales</i>) (2016), "BMAS fördert Interessenvertretung", Press release, 15. November 2016: http://www.bmas.de/DE/Presse/Meldungen/2016/foerderrichtlinie-partizipation.html</p>	<p>(BGG - <i>Behindertengleichstellungsgesetz</i>) and to thereby improve the funding of NGO's, the Federal Ministry of Labour and Social Affairs published the guideline on the advancement of participation of persons with disabilities and their associations in the shaping of public affairs.</p> <p>The funding outlined in this guideline addresses measures which aim to improve skills and possibilities of NGOs representing persons with disabilities needed for the participation in public affairs with the aim to enable and to simplify the participation of these NGOs in the policy decision making process.²⁹ Only those NGOs which represent the interests of people with disabilities and have expressly declared this goal in their statute are funded under the guideline. In addition, funded NGOs have to fulfil the criteria of § 15(3) BGG.</p>
<p>The implementation of §47 Joint Rules of Procedure of the Federal Ministries (GGO - <i>Gemeinsame Geschäftsordnung der Bundesministerien</i>) in practice.</p>	<p>Germany, Joint Rules of Procedure of the Federal Ministries (GGO - <i>Gemeinsame Geschäftsordnung der Bundesministerien</i>) (2016), § 47: https://www.bmi.bund</p>	<p>The Joint Rules of Procedure of the Federal Ministries came into force in 2000. Over the past few years, NGOs which promote fundamental rights, especially in the field of asylum law, were in practice restricted in their right to participate in the policy-, decision-making processes. The time periods</p>

²⁸ Germany, Federal Ministry of Labour and Social Affairs, Guideline to funding the participation of people with disabilities and there organisations in the shaping of public, 26 October 2016, Berlin: http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/richtlinie-partizipationsfoerderung.pdf?__blob=publicationFile&v=2.

²⁹Germany, Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales) (2016), "BMAS fördert Interessenvertretung", Press release, 15 November 2016, available at: <http://www.bmas.de/DE/Presse/Meldungen/2016/foerderrichtlinie-partizipation.html>.

<p>With § 47 Joint Rules of Procedure of the Federal Ministries (GGO), the ministries gave NGOs the possibility to comment on ministerial draft bills. The aim is to improve the participation of NGOs in the policy-, and decision-making making process.</p> <p>Especially notable are the developments of implementation of §47 Joint Rules of Procedure of the Federal Ministries (GGO - <i>Gemeinsame Geschäftsordnung der Bundesministerien</i>) in legislative procedure of asylum law.</p>	<p>.de/SharedDocs/Downloads/DE/Veroeffentlichungen/ggo.pdf?__blob=publicationFile</p>	<p>offered to NGOs to comment on ministerial draft bills were extremely short although the according bills had profound consequences for migrants and refugees.</p> <p>The following are a few examples:</p> <p>In September 2016, after publishing the planned reform of the Asylum Seekers Benefits Act (AsylbLG) as a ministerial draft bill of the Federal Ministry of Labour and Social Affairs, NGO's were given only one week to comment.</p> <p>Germany, Jesuit Refugee Service, Comment on the draft bill for the amendment on the Asylum Seekers Benefits Act 13 September 2016, available at: http://www.fluechtlingsinfo-berlin.de/fr/asylblg/Jesuiten_AsyblG_2016.pdf</p> <p>With regard to the draft bills for the so-called first and second 'asylum package', an accumulation of planned amendments to German asylum law (<i>Asylpaket</i>), NGOs were given extremely short timeframes to comment. Regarding the first package, NGOs had only 30 hours to comment. This was criticised by the Diakonie:</p> <p>Germany, Diakonie, Comment on the draft bill, 23 September 2015, available at: http://www.fluechtlingsinfo-berlin.de/fr/pdf/Diakonie_AsyLG_230915.pdf</p> <p>Regarding the second asylum package, NGOs had only a few hours to comment. Pro Asyl and many other NGOs criticised this in an official statement.</p>
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<p>Decision of Council of Elders of the German Bundestag (18 February 2016); The decision specifies § 2 Subsection 4 House Rules of the German Bundestag³⁰ (<i>Hausordnung des Bundestages</i>), which regulates the issuing of building security passes for the Bundestag.</p>	<p>Germany, House Rules of the German Bundestag (<i>Hausordnung des Bundestages</i>) (2016) § 2 Subsection 4: https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/glo_btg/anhang1/249296</p>	<p>In February 2016, the Council of Elders of the German Parliament (<i>Bundestag</i>) changed the rules of access to parliament. Prior to this new rule, unregistered and registered organisations, lobby-firms, law-firms and companies were able to obtain up to five passes through parliamentary groups (<i>Fraktionen</i>). The allocation system was not transparent; More than 1,000 lobbyists have access to the parliament.</p> <p>Since February 2016, only the administration of the Parliament can issue the building security passes. Companies cannot obtain any building passes. Access for organisations is limited. Only registered organisations can get up to two access passes.</p> <p>Germany, Bundestag, Instructions to the Access of Organisations to the German Bundestag, available at: https://www.bundestag.de/blob/409838/b1b7767b2ec708e4f26b55870329a71c/merkblatt-data.pdf</p> <p>Germany, Sawatzki A. (2015) Organisation Lobbycontrol, „Hausausweise: Wer nimmt die Hintertür in den Bundestag?“, 4 November 2015: https://www.lobbycontrol.de/2015/11/hausausweise-wer-nimmt-die-</p>

		hintertuer/
Germany has joined the Open Government Partnership (OGP) on 7 December 2016.		<p>Measures linked to this partnership (OGP) were adopted in 2017:- The Federal Ministry for the Interior published a draft bill for an „open-Data“-Law,³¹ and has initiated the pilot project “Pilot Municipality Open Government”³²</p> <p>The Federal Ministry of Education and Research funds the Open Source Software³³</p> <p>The Federal Ministry of Transport and Digital Infrastructure has created the tool mCLOUD and the funding programme mFUND for the development of digital business.³⁴</p> <p>The Federal Ministry of Finance is planning to advance a new electronic transparency register to combat money laundering and the financing of terrorism.³⁵</p>

4 Further information „bengo – Engagement Global“

³¹ Germany, Federal Ministry for the Interior (*Bundesministerium des Innern*) (2017), Draft bill,

<http://www.bmi.bund.de/SharedDocs/Downloads/DE/Gesetzestexte/Entwuerfe/entwurf-open-data-gesetz.html>.

³² Germany, Federal Ministry for the Interior (*Bundesministerium des Inneren*) (2017), press statement: <http://www.bmi.bund.de/SharedDocs/Kurzmeldungen/DE/2017/02/start-ogp-wettbewerb.html>.

³³ Germany, Federal Ministry of Education and Research (*Bundesministerium für Bildung und Forschung*), press statement; 01 August 2016; <https://www.bmbf.de/foerderungen/bekanntmachung-1225.html>.

³⁴ Germany, Federal Ministry of Transport and Digital Infrastructure (*Bundesministerium für Verkehr und digitale Infrastruktur*) (2017): <http://www.bmvi.de/SharedDocs/DE/Artikel/DG/open-data.html>.

³⁵ Germany, Federal Ministry of Finance (*Bundesfinanzministerium*) (2017), press statement, <http://www.bundesfinanzministerium.de/Content/DE/Pressemitteilungen/Finanzpolitik/2017/02/2017-02-22-pm-eu-geldwaescherichtlinie.html>.

On 1 January 2016, in the context of the coming into force of the regulation for the furthering of projects of importance for development, 'bengo-Engagement' was appointed as central coordination and advice point for the Federal Ministry of Economic Cooperation and Development.³⁶ While the final decision regarding the allocation of funds to the individual measures, projects, and organisations still lies within the competence of the BMZ, the general management of the budget linked to the funds, including the preliminary selection and approval of funding applications was delegated to Engagement Global. Engagement Global has thereby become central contact point for all issues related to funding provided through the BMZ. The organisation acts as a central contact point for NGOs during the application procedure, as well as an advice centre, and also checks the allocation of funds for specific purposes.

³⁶ Germany, Federal Ministry for Economic Cooperation and Development (2016), Guideline for funding of projects of importance to development, available at: http://www.schmitz-stiftungen.de/wp-content/uploads/2016/04/BMZ-Foerderrichtlinien_ab_01_01_2016.pdf.