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POLICY–TRANSFER–STUDY AS PART OF THE EVALUATION OF THE GERMAN AtEI ACT
LEARNING FROM "GOOD PRACTICE"

AIM OF THE STUDY

Drawing lessons from good practice elsewhere..

Two main questions:

1. *What kind of lessons* we are searching for?
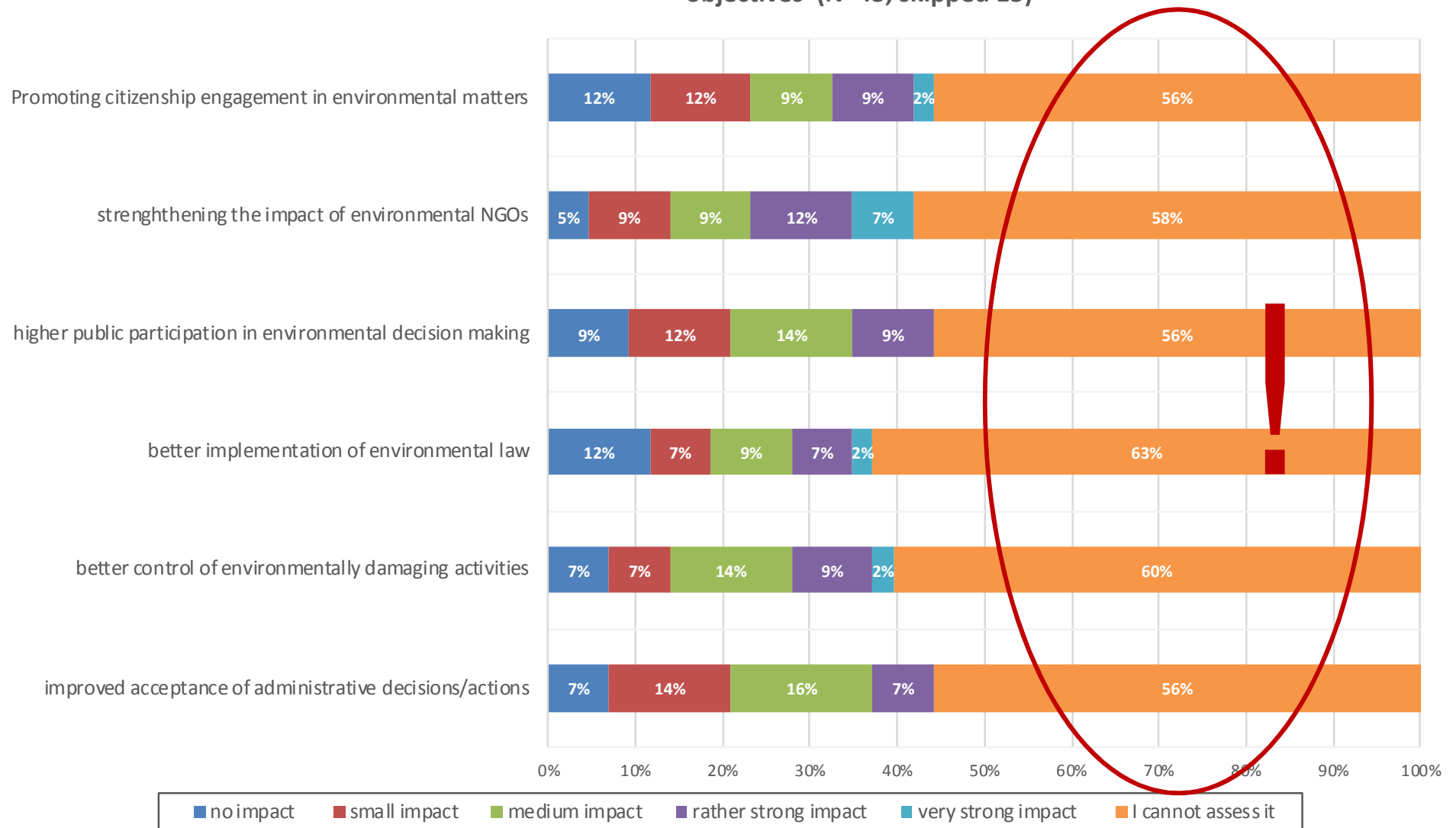
2. *Where* do we search for lessons?

WHAT KIND OF LESSONS WE ARE LOOKING FOR?

From a political science perspective those findings of the evaluation are most relevant which seriously *risk target achieve*ment.

Target of the UIG: better environmental protection

- access to/active dissemination of information ***is not an end in itself***

- serve as environmental policy instrument that reduces information asymmetries for the benefit of civil society actors in order to

  a) better *integrate* stakeholder/citizens knowledge/views,

  b) to better *control* implementation and enforcement of law and

  c) To better *include* public concerns into env. decision making

- as consequence to better protect the environment (*indirect* environmental protection)
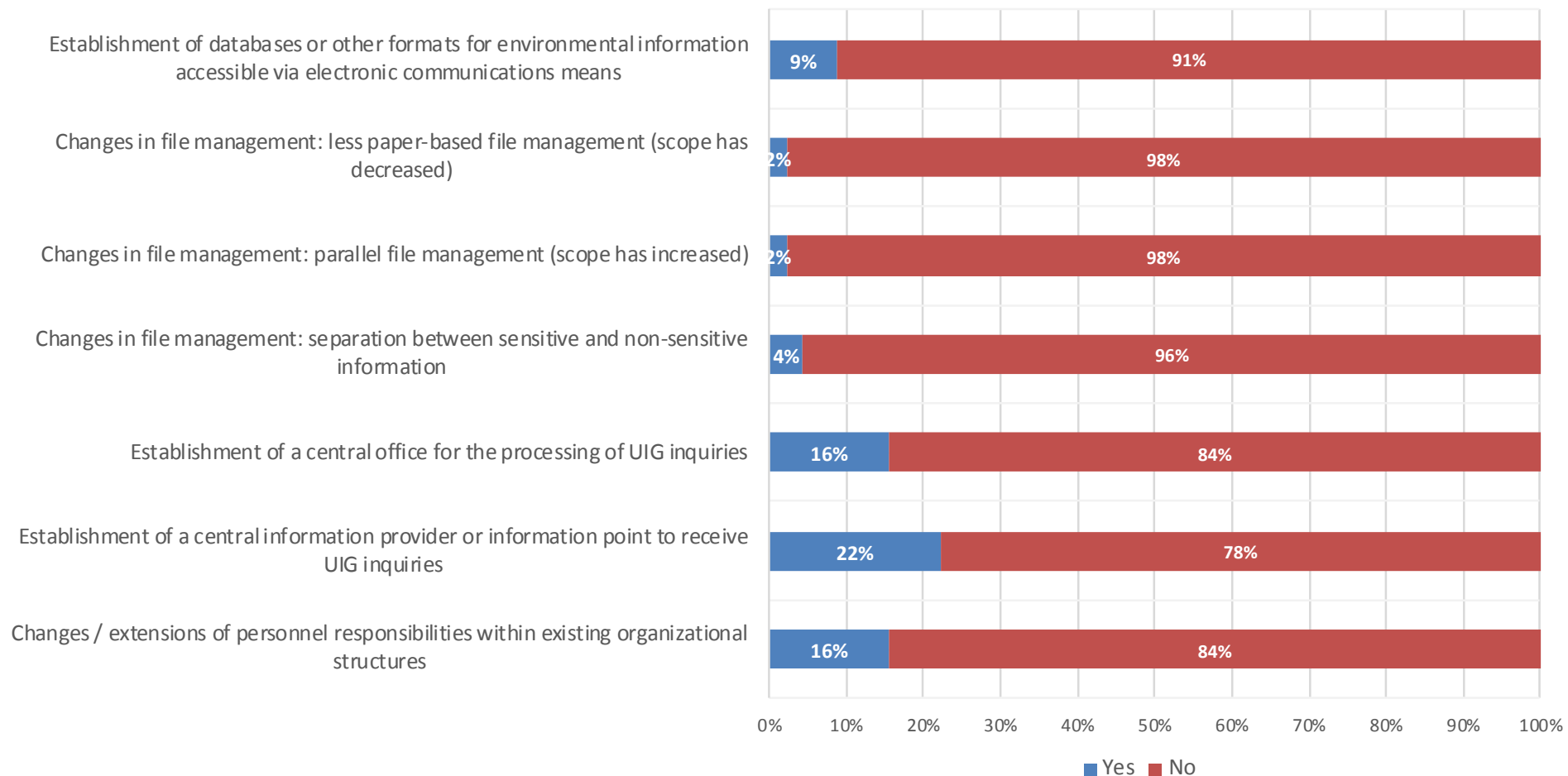
Answers of administrative actors in public authorities which are required to provide information: Please evaluate the impact of the Environmental Information Act concerning its regulatory objectives (N=43, skipped 15)

Objective	no impact	small impact	medium impact	rather strong impact	very strong impact	I cannot assess it
Promoting citizenship engagement in environmental matters	12%	12%	9%	9%	2%	56%
strengthening the impact of environmental NGOs	5%	9%	9%	12%	7%	58%
higher public participation in environmental decision making	9%	12%	14%	9%		56%
better implementation of environmental law	12%	7%	9%	7%	2%	63%
better control of environmentally damaging activities	7%	7%	14%	9%	2%	60%
improved acceptance of administrative decisions/actions	7%	14%	16%	7%		56%

Legend: no impact, small impact, medium impact, rather strong impact, very strong impact, I cannot assess it

Source :AtEI Evaluation: Survey 2017 on behalf of the UBA

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Answers of administrative actors in public authorities which are required to provide information:
Has the processing of requests that fall within the scope of UIG led to organizational changes in your authority? (N=45)

Category	Yes	No
Establishment of databases or other formats for environmental information accessible via electronic communications means	9%	91%
Changes in file management: less paper-based file management (scope has decreased)	2%	98%
Changes in file management: parallel file management (scope has increased)	2%	98%
Changes in file management: separation between sensitive and non-sensitive information	4%	96%
Establishment of a central office for the processing of UIG inquiries	16%	84%
Establishment of a central information provider or information point to receive UIG inquiries	22%	78%
Changes / extensions of personnel responsibilities within existing organizational structures	16%	84%

Source : AtEI Evaluation: Survey 2017 on behalf of the UBA

WHAT KIND OF LESSONS?

Are the deficits/shortcomings/specific features in the applications of the AtEI Act typical to the AtEI Act?

in other words: is it very helpful to just look for lessons how to improve single aspects of structural and procedural organisation of AtEI enforcement?

From a political science perspective the answer is *no*!

- problems are not specific to the UIG-implementation

- it is a common feature of almost all legal provisions which aim at greater transparency of administrative action (accessibility, digitization); public participation in/ and public control of administrative action - at least all legal provisions that potentially influence the relationship between state and public

- This is not due to *single* administrative actors unwillingness but instead due to very specific *administrative culture, philosophy and practices in Germany (and in other countries with a legalistic tradition)*

- as a consequence, we have to look for more fundamental approaches that might change *on the long run* pattern of interaction between state administration and the public sphere

"OPEN GOVERNMENT":
a new international momentum to renewing citizens relationship to public officials

OECD: open government means "*The transparency of government actions, the accessibility of government services and information, and the responsiveness of government to new ideas, demands and needs*" (OECD 2005: Modernising Government. The Way Forward)

OECD newest definition: open government is "*a **culture** of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth*" (OECD recommendations on open government Dec. 2017)

Background of international high level attention: political awareness of an increasing disconnection of people with their governments, raise of populism, crisis of legitimacy of representative democracies

Old wine in new bottles? Yes and no!

- **Yes:** one of the originating communities are the advocates of the Freedom of Information provisions/protagonists of the Aarhus Convention

- **No**: new impulses to that „old" idea **-** influenced by *new technologies* (internet), new additional communities (open source, open innovation entrepreneurs) and high level international attention to that issue (Multilateral Aggreements e.g. G8-Open Data Charter; Open Government Partnership

OPEN GOVERNMENT AND ATEI ACT

Open Government and Aarhus Convention/(AtEI Act) have similar political targets:

Openess and responsiveness to the public (collaborative culture)…

- *Transparency*

- Participation and Collaboration

- *Accountability*

…in order to improve outcome and legitimacy of state action

- *Better Performance*

- *More Acceptance*

- *More Efficiency*

OPEN GOVERNMENT: KEY PRINCIPLES

- Open by **default** principle   (focus here)

  - government makes its data accessible to the public *by default* and not only on demand

  - with information being withheld only for necessary privacy, confidentiality and security reasons.

  ➡ Clear reference to §10 AtEI Act (predecessor of the „open-by-default"-principle)

- „Release to one-release-to all" principle (few lessons to draw so far - one policy pilot of Obama administration)

  - All data and information provided to answer individual requests for information are made publicly available for everybody (e.g.via a centralized database)

  - Target: Reduction of repeated individual requests for information

  - *Reduces work load and transaction costs for both applicants and administrations*

ROLE OF ADMINISTRATIVE ACTORS AS GATEKEEPERS – HOW TO DEAL WITH A PARADOX

- Open government ideas are confronted with similar barriers as UIG implementation (so, what can we learn?)

- Lesson from policy transfer research: administrative actors work as gatekeepers: only those ideas/practices will pass these gatekeepers that fit with administrative pattern of action/traditions (OG introduces the public management approach)

  - Legalistic tradition in Germany:
    - Clear division between state and private sphere
    - Administrative logic: strict law execution and enforcement instead of public management approaches

- Lesson: it will not suffice to *transpose another international obligation* into national law as in the case of AtEI Act ("forced" by EU-directive) - Open Government is a *new culture* that cannot be prescribed

- Paradox: cultural change in administrative action is not *only the target*, but has to be also a *starting point - requires strategies how to approach it*

SEARCH FOR STRATEGIES TO APPROACH OPEN GOVERNMENT

"open by default" is an aspirational *principle and a long-game (high bar) - administration must radically change the way they work*

Much concerns in the open data/ open government communities relate to that principle and question whether the bar is to high..

Observed tendency: **to publish as much as possible***: inefficient approach, information overload, to less structure and guidance for handling information disclosure as instruments for something*

New discussion: "publish with purpose" –shift to a more nuanced approaches which keep the purpose in mind – **this is a strategic approach**

Strategies deal with the question: How should public administration agencies proceed in the implementation of Open Government?

 Austrian „Open Government Implementation Model" and the way it has been developed gives lessons, that can be learned from

ADMINISTRATIVE CULTURES

- ## Anglo-American

  - Public interest tradition

  - Instrumental perception of the state: New Public Management approach (service orientation)

  - More proactive transfer of information and data between state and societal sphere

- ## Continental-European

  - Legalistic tradition

  - Clear division between state and private sphere

  - Administrative logic: priority on law execution and enforcement

  - Barrier to an proactive transfer of information

AUSTRIA: AN UNEXPECTED OG-PIONEER

„Administrative fit" – as one of the most important prerequisite for policy learning from elsewhere

- Similar legalistic administrative culture as in Germany

- Similar mulit-level political system → strong role of subnational policy levels in the implementation of political and administrative reforms

Austria developed/s a strategy how to **imcrementally /stepwise** implement open government in order to change legalistic administrative culture

AUSTRIA: MAIN FEATURES OF THE POLITICAL PROCESS – LESSONS TO LEARN
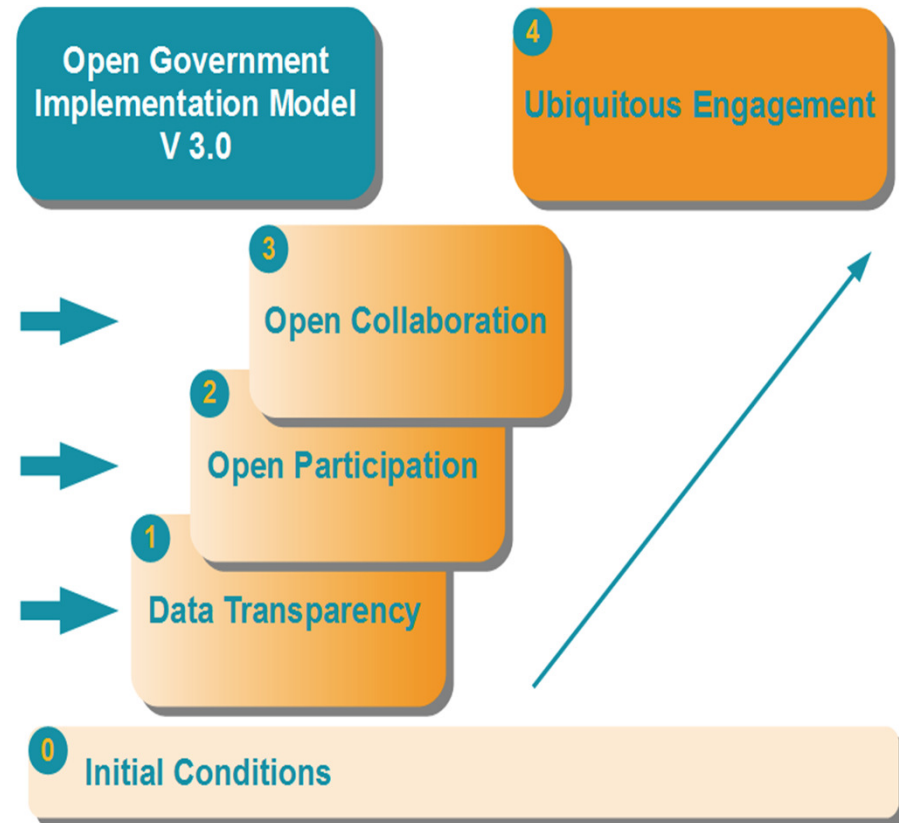
- **Pioneering and Leadership** („coalition of the willing"): 2011: City of Vienna, Linz, Salzburg, Graz and Federal Chancellery – founded the **Cooperation Open Government Data Austria**

- **Close collaboration with civil society** (Open Knowledge Forum Österreich as adisory council)

- **Interdisciplinary approach and integration of stakeholder**: a) those who gather information (authorities) b) those who use

- **joint development** of **common standards** for systematic opening and classification of government data (e.g. no usage costs, uniform license and uniform metadata)

- **Priorisation of data to provide first: Identifying** potentially high-value or high-impact **databases** toghether with users/civl society (publish with purpose)

Outputs:

1. centralised OG-data portal data.gv.at as „single point of contact" – more than 900 municipalizies contribute – accelerated by the strongly formalized standards

2. Living" guidance document: Strategic approach how to implement Open Government which goes far beyond open data

THE AUSTRIAN OPEN GOVERNMENT IMPLEMENTATION MODEL

- Incremental approach that considers scarce ressources and prevents resistance and overload

- Purpose of Open Government is included not just an open data focus

- Definition of subsequent stages and the respective measure per stage

- Development with stakeholders: multiple consultation and improvements after consultation with ministries, municipalities, autorities, users, NGOs and the public/scientific OG-community
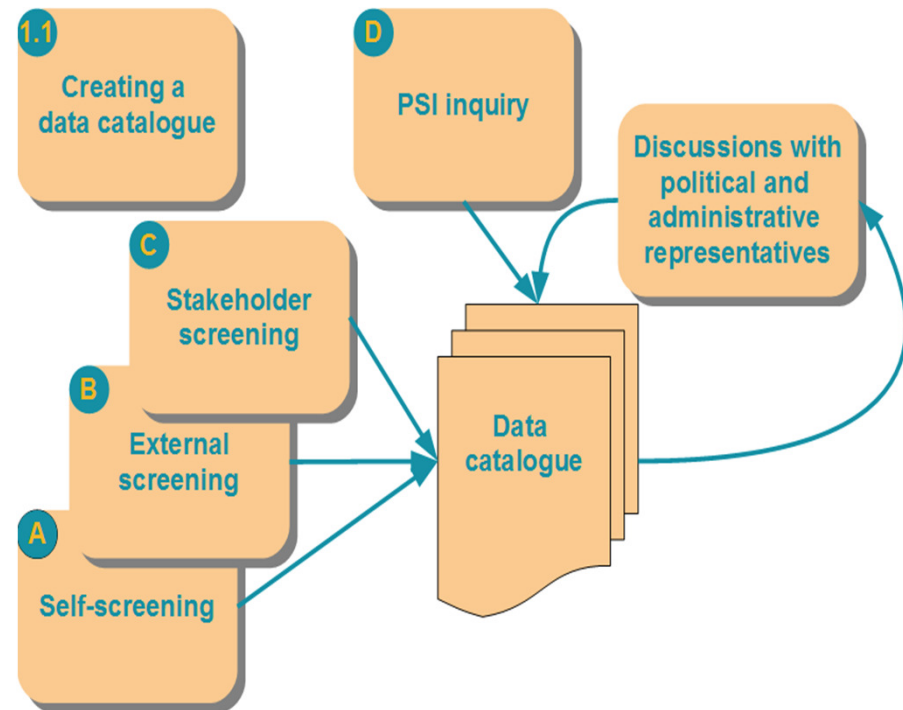
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Open Government Implementation Model V 3.0

4 **Ubiquitous Engagement**

3 **Open Collaboration**

2 **Open Participation**

1 **Data Transparency**

0 **Initial Conditions**

Source http://www.kdz.eu/de/open-government-vorgehensmodell   (German and English version available) :

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The two main tasks in
Stage 1 are:

- **Identifying** potentially high-value or high-impact **databases.**

- **Improving and ensuring data quality:** accuracy, consistency and timeliness

Thank you very much for your attention!

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