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Open Government policies: untangling the differences and similarities between the US and the EU approach

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Abstract. The purpose of this work is to explore the main differences and similarities between open government policies developed since 2009 by the US and the EU, two major powerhouses in what concerns eGovernment-related policies. For that purpose, the authors analyzed the information on webpages and main policy documents as available to any ordinary citizen. The results show that both the US and EU policy share the same core concepts and goals. However, while the US opted to formulate an autonomous policy under a unifying ‘open government’ umbrella term, the EU choose to incorporate the goals and principles into an already existing eGovernment development effort, emphasizing ‘public services innovation’ instead. As a consequence, in the US case it is easier to identify and understand the policy main goals, and to find policy-related information online. Furthermore, the US policy seems to have had a bigger external impact and recognition.

Keywords: Open government; policy; assessment.

1 Introduction

In 2003 the OECD published a report entitled “Open Government: fostering dialogue with civil society” [1], based on a conference held in 2002. In this report, the concept of an ‘open government’ was still mainly related with policy-making openness, with an emphasis on information, consultation and public participation, the hallmarks of eDemocracy and eParticipation [2]. Later on, Linders and Wilson [3] analyzed the United States (US) Memorandum on Transparency and Open Government [4] and further confirmed that the main ideas and concepts behind it were not entirely new. In fact, they identified four main perspectives (“lenses”) which influenced the Memorandum, namely with ideas from transparency advocates, technology savvies (“the futurists”), civil society eParticipation promoters, and bureaucrats worried about compliance to mandates and standards.

Nevertheless, 2009 seems to be a landmark year as both the US and the EU launched their open government related policy framework. Despite the organizational differences between the two ‘blocks’, federal state (US) and country union (EU), they are both

highly influential worldwide in what concerns eGovernment-related progress. Therefore it is appropriate and relevant to jointly analyze the process by which both ‘blocks’ have defined and are currently implementing their open government related policies.

However, at this point, it does not seem straightforward, from an ordinary citizen (someone not directly involved in the open government policy-formulation process as a public official) point of view, to fully understand the key concepts and supporting documents of both the US and the EU open government policy. The long list of EU reports at the end of this paper (references section), and the apparent proliferation of related websites, portals and dedicated webpages, for instance, illustrates this difficulty.

Therefore, the first objective of this paper is to untangle the open government policy framework in both ‘blocks’ (US and EU), and shed some light on it from an ordinary citizen point of view. For this purpose, an exploratory research effort was conducted based on content analyses of websites and key policy documents¹. More specifically, the following issues were addressed:

- How easy is it to find information, and to navigate through the different official documents, in order to have a clear picture about US and EU open government policy?
- What are the main distinctive characteristics between their open government policy, including concepts, development process, and assessment?
- Overall, what can we learn from the way both policies were defined and implemented?

This work did not aim to provide definitive answers but the main finding from this exploratory research effort indicate that the option to define an autonomous open government policy by the US may have contributed to an increased simplicity, clearness and (external) visibility when compared with the EU choice to embed its open government policy on pre-existing eGovernment development. Ultimately, the EU approach may render it more difficult to an ordinary citizen to understand the policy, its implications and impact.

The remainder of this paper is structured around four specific perspectives from which both open government policy framework were analyzed, ending with an overall discussion and conclusions.

2 Finding information on open government policy

To start untangling the differences and similarities between the US and the EU approach we need to consider how easy it is to find relevant information concerning the open government policy in both cases. An ordinary citizen point of view was adopted that assumes such information should be available on the Internet, and that some initial reference (starting point) would exist in the White House and the European Commission homepages respectively.

¹ All online content was last accessed in January-March 2015.

2.1 The US case

No direct reference to ‘open government’ was found in the White House homepage², including in the Initiatives section, so it was necessary to perform an internet search. Using the expression ‘Open Government USA’ on Google yielded an ‘Open Government Initiative | The White House’ link³, which pointed to the Open Government homepage. From this homepage, within different sections, it is possible to access:

- A description of the general aspects related to the Open Government initiative, including a link to the Directive and Memorandum documents;
- Direct links to some federal flagship initiatives on Transparency (such as data.gov, recovery.gov, USASpending.gov, IT.usaspending.gov, or foreignassistance.gov), Participation (such as ‘We the People’ or the ‘Open Government Discussion Group’) and Collaboration (such as ‘Challenge.gov’);
- A link to “The Obama Administration’s Commitment to Open Government Status Report” [5];
- Links to a dedicated ‘Open Government Partnership’ webpage⁴ and external ‘Open Government Partnership’ website⁵. Also made available here is:
 - A list of all Open Government National Action Plans, developed in the ‘Open Government Partnership’ context, including a link to the US Third (latest) Open Government National Action Plan [6];
 - The Open Government Partnership Government Self-assessment Report [7]⁶;
- Information concerning the Interagency Open Government Working Group, with a specific webpage⁷ which lists and links to each agency Open Government program specific homepage. Another memorandum [8] is also available to “assist agencies as they prepare to launch their 2014 Open Government Plans”.

The content and organization of this homepage not only reflects the major concepts of the US policy framework, but it also provides access in a single point to the most relevant initiatives and policy documents.

2.2 The EU case

There was also no direct reference on the European Commission homepage⁸ to ‘Open Government’. As in the US case, it was necessary to perform an internet search to find the applicable information. Using the expression ‘Open Government European Union’ on Google yielded an ‘Open government | Digital Agenda for Europe’⁹. The analysis of the webpage navigation path (‘European Commission > Digital Agenda for

² <https://www.whitehouse.gov>

³ <https://www.whitehouse.gov/open>

⁴ <https://www.whitehouse.gov/open/partnership>

⁵ <http://www.opengovpartnership.org/>

⁶ Assesses the First National Action Plan

⁷ <https://www.whitehouse.gov/open/about/working-group>

⁸ http://ec.europa.eu/index_en.htm

⁹ <https://ec.europa.eu/digital-agenda/en/open-government>

Europe > Open government’) reflects an ‘Open government’ topic under the more broad ‘Digital Agenda for Europe’ subject.

In the navigation bar, the topic ‘Open Government’ is presented in a hierarchical tree structure under ‘Public Services’ and ‘Digital Society’ (top level), alongside with ‘Action plan 2011-2015’, ‘Cross-border solutions’ and ‘eGovernment studies’. Still in the navigation bar, three topics are grouped under ‘Open Government’, each one linking to specific webpages which detail its associated content:

- ‘eParticipation’, which is considered a pillar of open government [3];
- ‘Cloud of Public Services’, a mostly technical aspect concerning digital public services infra-structure, with no clear relation with the ‘open government’ concept;
- ‘Horizon2020’, the EU Framework Programme for Research & Innovation.

Within the webpage content it is also possible to find three external links:

- ‘Open data’¹⁰, which links to a dedicated webpage and provides access to several legislative and non-legislative measures as well as a list of several Member State’s and EU open data portals;
- ‘ICT-enabled public sector innovation’¹¹, which links to the same content as the ‘Horizon2020’ topic in the navigation bar;
- ‘Vision for public services’, which links to another webpage and a specific policy document [9].

This webpage is somewhat hidden within and alongside several other eGovernment thematic pages without a clear and direct relation to open government. The way the navigation path and navigation bar are structured further contribute to create a fuzzy image about the EU open government policy. The actual content of this webpage does generically refer to some of the same components and principles also present in the US Directive, such as transparency, citizen participation and engagement, and “collaboration for the design, production and delivery of public service”. However, the emphasis seems to be on ‘public service innovation’ and general eGovernment development.

3 Initial landmark event information

Once an initial source of online information was found, the analysis proceeded to identify the initial landmark event which kick-started the open government policy.

3.1 The US case

In the US case, a detailed description of the initial policy documents (Directive and Memorandum) is clearly available, including the documents themselves, in the White House open government homepage.

¹⁰ <https://ec.europa.eu/digital-agenda/en/open-data>

¹¹ <https://ec.europa.eu/digital-agenda/en/ict-enabled-public-sector-innovation-horizon-2020>

Despite previous efforts to increase/adopt transparency, participation and collaboration principles in the US Administration, the Memorandum on Transparency and Open Government issued by President Obama in 2009 is considered the landmark event that initiated the systematic development of the US policy.

As a first consequence of the Obama Memorandum, Peter Orszag, Director of the Office of Management and Budget (OMB), issued an Open Government Directive [10]. The Directive¹² required “executive departments and agencies to take ... steps toward the goal of creating a more open government” by publishing government information online and improving its quality, creating a policy framework and establishing a culture of open government.

The Directive also established several deadlines to implement specific actions (“Within 45 days, each agency, ...”) and guidelines on how these agencies should formulate and publish their individual plans, including the obligation to rely on “extensive public and employee engagement while formulating their open government plans. Apart from identifying the three original main areas covered by these plans, *transparency*, *participation*, and *collaboration*, federal agencies were also required to describe at least one “Flagship Initiative” in one of those areas.

In sum, it is easy to identify and access the initial US open government policy documents which, in turn, contain a clear and concise description of the main policy guidelines and implementation path.

3.2 The EU case

Contrary to the US, in the EU case it is necessary to navigate through the ‘ICT-enabled public sector innovation’ link or the ‘Horizon2020’ topic in the navigation bar to access a description of its policy origin.

In a similar way to the US Directive, the Malmö Ministerial Conference on eGovernment, which also took place in 2009, seems to have provided the main initial political impulse to open government efforts in the EU. In fact, in the “ICT-enabled public sector innovation in Horizon 2020” webpage¹³ there is a mention to the 2009 Malmö Ministerial Conference on eGovernment [11] as the moment when the vision to “make European public administrations open, flexible and collaborative in their relations with citizens and businesses” was laid out. According to the same webpage, this vision was afterwards translated “into several concrete actions through the open government concept, in the European eGovernment Action Plan 2011-2015” (this document was published in December 2010).

Although the Malmö Ministerial Conference Declaration does not specifically refer to ‘open government’ (there is no single mention of this particular term), it does refer generally to the need for “governments to be more open, flexible and collaborative in their delivery of public services”.

The Declaration also addresses general concerns (such as reducing the carbon footprint) and traditional eGovernment themes such as the need to develop “user-centric

¹² <https://www.whitehouse.gov/open/documents/open-government-directive>

¹³ <https://ec.europa.eu/digital-agenda/en/ict-enabled-public-sector-innovation-horizon-2020>

services”, “multi-channel strategies”, and to “apply information and communication technologies in order to increase efficiency and effectiveness”.

Additionally, the Declaration does refer to some specific open government related shared objectives and policy priorities such as *transparency for accountability* (“Strengthen transparency of administrative processes. ... Transparency promotes accountability and trust in government”), *transparency for data re-use* (“Increase availability of public sector information for reuse. ... encourage the reuse of public data by third parties”), *participation* (“Involve stakeholders in public policy processes. ... effective, useful and better ways for businesses and citizens to participate in the policy processes”) and *collaborative service delivery* (“eGovernment services ... developed in collaboration with third parties”) and the equivalent to *inter-agency partnering* in the European context (“seamless cross-border eGovernment services ... interoperability of eGovernment services and systems in the Single Market”).

In the EU case, it was not easy to identify the Malmö Ministerial Conference Declaration as the policy kick-starter, namely because ‘open government’ does not appear to have been used as an umbrella term to describe the goals (policy priorities). Nevertheless, the Declaration does refer to specific implementation and monitoring actions and milestones, although the actual responsibility for its implementation is somewhat fuzzy.

4 Implementation path and impact

This section analyses the implementation paths followed once the initial policy documents were approved, and its impact both internally and externally.

4.1 The US case

The Obama Memorandum charged the Chief Technology Officer to develop an Open Government Directive with instructions to “executive departments and agencies to take specific actions implementing the principles set forth” in the memorandum.

In the same year (December) the Directive instructed those departments and agencies to take specific actions, such as improving the quality of government information and publishing it online by taking a proactive approach to FOIA, publishing at least three high-value data sets on Data.gov, and creating its own Open Government Webpage with a specified URL structure.

Agencies were also required to develop their own Open Government Plan, to be revised every two years. The Directive contained general guidelines about the main plan domains (transparency, participation, collaboration), required them to describe at least one specific new flagship initiative in one of these main domains, and provided guidelines on how the general public and agency employees should be included in the formulation process. The Directive also required each plan to be disclosed in the agency webpage. Some of these instructions came with a defined deadline for implementation.

Furthermore, the Directive planned the creation of an Open Government Dashboard “designed to provide an assessment of the state of open government”. Although it was not possible to find this specific dashboard within the White House Open Government

homepage¹⁴, the ‘Open Government Working Group’ webpage does provide a list of all agencies’ dedicated open government homepages.

The analysis of the US Department of Justice general homepage, for instance, also revealed a direct link to its dedicated open government homepage¹⁵ where all policy related information is available, including the Department’s plans, actions and progress assessment.

With the exception of the requirements directed at federal agencies, and as far as the information available on the US open government homepage is concerned, no reference was found concerning the implementation of open government principles in the State and Local government.

Apart from this internal (federal) implementation path, the US also developed several Open Government National Action Plans to comply with the requirements of the Open Government Partnership (OGP). These plans were bound to “outline specific and measurable open government commitments ... made within five “grand challenge” topic areas”¹⁶, and participating countries were required to assess and revise their own plans every two years. The OGP, launched in 2011 and currently involving 69 countries (including some EU Member States), may itself be considered as an example of the external impact of the US open government policy¹⁷.

The most prominent open data US portal, Data.gov, may also be considered as an example of the external influence of the US policy as it established the ‘data.gov.<country>’ URL structure standard for this type of portal as the list of more than 300 similar portals around the world¹⁸ illustrates. A quick search on Google Scholar also found several references which address Data.gov, thus showing its relevance as a study case for academia.

4.2 The EU case

The Malmö Declaration is clear about developing an eGovernment action plan which consider the policy priorities outlined. However, it clearly stated that these objectives were “proposed ways”, “entirely without prejudice to the competencies exercised at European, national or sub-national level”.

The second eGovernment Action Plan [12] does indeed state that it “aims to realise the ambitious vision contained in the Declaration made at the 5th Ministerial eGovernment Conference (the ‘Malmö Declaration’)”. Once again, there is no mention of the

¹⁴ Wilson and Linders [14] do refer to a White House scorecard available at <http://www.whitehouse.gov/open/around>, but it was not available anymore in this location and it could not be found elsewhere.

¹⁵ <http://www.justice.gov/open>

¹⁶ “Improving Public Services, Increasing Public Integrity, More Effectively Managing Public Resources, Creating Safer Communities, Increasing Corporate Accountability” <https://www.whitehouse.gov/open/partnership/national-action-plans>

¹⁷ “President Obama launched the Open Government Partnership (OGP) in 2011 at the U.N. General Assembly meeting with seven other heads of state and an equal number of leaders from civil society.” <https://www.whitehouse.gov/open/partnership>

¹⁸ <http://www.data.gov/open-gov/>

expression ‘open government’ in the plan. Instead, the Action Plan aims to support “the transition from current eGovernment to a new generation of open, flexible and collaborative seamless eGovernment services”, that is, the terminology used emphasises ‘Open eGovernment Services’ rather than broad ‘Open Government’.

In this Action Plan there seems to be no reference to specific actions to be further developed or implemented by EU Directorate-Generals as is the case of the US Administration Federal Agencies. Instead, the EU Commission recognizes “the central role of national governments in the implementation” of the action plan, and defines the Commission’s main responsibility being “to improve the conditions for development of cross-border eGovernment services ... establishing pre-conditions, such as interoperability, eSignatures and eIdentification” [12, p. 5].

The Action Plan also urged all Member States to incorporate the “political priorities of the Malmö Declaration in their national strategies” by 2013, and required “all Member States to inform the Commission and the High-Level Expert Group how the political priorities of the Malmö Declaration have been achieved” by 2015 [12, p. 15].

The structure of the Action Plan reflects four political priorities, including one termed “User Empowerment” which contains four sub-political priorities easily identified with the US Directive open government objectives: “Collaborative Production of Services”, “Re-use of Public Sector Information”; “Improvement of Transparency”; “Involvement of citizens and businesses in policy-making processes”. The remaining (sub-)political priorities could be more easily associated with traditional eGovernment development.

It was not possible to find any specific individual impact of the EU open government policy in the different European Commission Directorates-General, considered here as the equivalent to US Federal Agencies. In the case of the European Commission Directorate-General for Justice and Consumers, for instance, no reference to ‘open government’ was found on its homepage¹⁹, although a ‘Transparency’ area exists where it is possible to access a list of meetings held by the Director-General and Secretary-General (date, location, entities met, subject). Contrary to the US Department of Justice, searching for ‘open government’ in the Directorate-General search engine did not yield any significant result.

In what concerns the EU external policy impact, apart from the recommendations for its implementation by Member States, the EU current eGovernment benchmark exercise [13] also involves European Free Trade Association (EFTA) countries (thus being referred to as EU28+).

From the ‘Open Data’ section in the EU open government homepage it was possible to identify at least two EU level open data portals:

- The European Union Open Data Portal²⁰ (Open Data Portal of the EU institutions), currently holding 8017 datasets;

¹⁹ http://ec.europa.eu/justice/index_en.htm

²⁰ <https://open-data.europa.eu/en/data>

- The European Data Portal²¹, currently holding 386,027 datasets harvested from national (Member States) public data portals.

Although both portals were said to “target relevant user audience, offering tailored content” it was not clear why there were two different portals at the EU level. A quick search on Google Scholar found no relevant references to any of these portals, which may be considered as an indicator of its relatively low impact in the academia.

5 Monitoring and assessment

Apart from the implementation path, both the US and the EU open government policy frameworks call for several monitoring and assessment actions.

5.1 The US case

In the US case, monitoring and assessment comprises two dimensions: one directed at federal agencies compliance with the Memorandum and Directive; the other, with a national scope, assesses the OGP commitments fulfillment.

Federal agencies and departments are responsible for the development, revision, and monitoring the progress of their own open government plans. Such plans and progress assessment should be available at their open government specific homepages, as listed in the Interagency Open Government Working Group section of the White House open government homepage (see section 2).

For instance, to assess the current status of the open government policy implementation in the US Department of Justice, it is possible to find in its homepage an “Open Government Progress Report”²².

From a global perspective, Wilson and Linders [14, p. 390] referred to a “White House’s post-implementation” scorecard which could not be found. Instead, a status report from 2011 [5] is available at the White House open government homepage (see section 2), where the US National Action Plan and Self-Assessment Report are also accessible.

Furthermore, within the OGP website it is possible to find National Actions Plans, Self-Assessment Reports, Progress Reports and other documents, organized by country in a common site structure, depending on whether or not each country choose to submit it.

5.2 The EU case

The EU has been performing regular eGovernment benchmarking exercises since 2001 [15]. In the latest benchmarking report [13] there is no mention to the Malmö Declaration and just one use of the term ‘open government’ was found:

²¹ <http://www.europeandataportal.eu/> (“currently available in beta mode since November 2015”)

²² <https://www.justice.gov/open/departments-justice-open-government-progress-report-december-2015>

“The results for user centric government (52%) and transparency (48%) make clear that the envisaged modern and open public sector, delivering public services in an open government setting (enabled by ICT), is far from reality.” [13, p. 23]

In a different document, the Midterm Evaluation of the eGovernment Action Plan 2011-2015 [16], it is indeed possible to find direct references to the Malmö Declaration and the term ‘open government’ (there is even a dedicated section called “Towards Open government”). This report “aims to provide a first measurement of the progress that the European Commission and the Member States are making with respect to the vision stated in the Malmö Declaration” [16, p. 1]. As part of the assessment process, an eGovernment Action Plan-evaluation website²³ was created to allow Member States to submit information on their progress. This website, which could not be found while browsing the Commission website, does indeed contain detailed data about each Member State self-assessment as well as two overall dashboards.

Overall, there seems to be a two path assessment effort (assessing the Action Plan implementation; eGovernment maturity benchmarking), something which is recognized in the Midterm Evaluation report:

“The European eGovernment “Benchmarking” framework should be aligned with the eGovernment Action Plan and measure the outcomes. [16, p. 4]

In 2011 an eGovernment Benchmark Pilot on Open Government and Transparency was performed [17] and the results were incorporated in the new 2012-2015 benchmark framework [18]. Efforts to develop a new eGovernment Action Plan 2016-2020 are already underway, this time under the banner of The Digital Single Market (DSM) Strategy for Europe [19].

6 Discussion

There are similarities between the US and the EU open government policy frameworks: they were both initiated in 2009 and, most importantly, they share the same core principles and goals. But even if the core concepts are common, the EU open government policy documents and webpage content and structure directly emphasize its relation to public services innovation, while the US policy seems to have a broader scope and it is organized around three clear principles: transparency, participation and collaboration.

Furthermore, the analysis seems to confirm that there is a major difference: while the US policy was designed and presented as a standalone framework, clearly formulated and implemented under a single umbrella term (‘open government’), in the EU the option was to embed the same principles in an already existing eGovernment framework. As a result, in the US case the information is provided with greater visibility and simplicity in what concerns policy goals, implementation path and monitoring. In the EU case, the lack of usage of an autonomous umbrella term makes it more difficult from an outsider (ordinary citizen) point-of-view to find specific open government related policy information and to understand it. In a sense, it is more difficult to untangle

²³ <http://www.egovap-evaluation.eu/>

the EU open government policy. This lack of an autonomous open government policy may also have contributed to a lesser external impact both in academia and other ('third-party') countries. For instance, the Obama Administration Memorandum and Directive is more recognizable as the origin of the US open government policy than the Malmö Declaration in the EU case, and the OGP creation is a good example of the US policy influence outside the US itself. Particularly in academia, the US Data.gov open data portal seems to have drawn much more attention than the two existing EU-level open data portals.

Another striking policy difference may be a result of the differences between a federal country (US) and an association of Member States (EU). In the US case, the policy implementation and assessment is directed at federal departments and agencies. Each agency has an obligation to elaborate its own plan, to assess and revise it periodically, and to disclose all the related information in a clearly identified online location. In the EU case, there seems to be no direct requirement for Directorates-General to develop and implement specific open government plans in their area, and Member States are simply "urged" to incorporate the Malmö Declaration policy principles into their individual national eGovernment strategies. As a consequence, progress in the EU case seems to be mainly assessed as part of the regular (from 2001) eGovernment maturity benchmarking exercises.

7 Conclusion

Since the US and the EU are two important policy development 'blocks' with influence in many countries worldwide, it is relevant to consider how they both defined and implemented their open government policy. The analysis results may provide guidance for other countries defining their open government policies, as well as for new policy-making processes.

In what concerns the issues listed in the Introduction, and despite the differences in nature between the US and the EU, the analysis found that it was more difficult to find information (online) concerning the EU process. Furthermore, as the list of references to EU reports in this paper may illustrate, it is not easy to form a clear picture of the whole EU policy framework. The way online information about open government is organized and structured, bundled with other apparently unrelated information, does not help either. On the contrary, the US defined a clear and simple process to implement and assess the policy, as well as a clear online structure (one webpage for each department or agency) to disclose policy-related information.

Although the core concepts and goals underlying both the US and EU open government policy were broadly the same, the US opted to define and maintain an autonomous open government policy, around well-defined principles, and always using the umbrella 'open government' term. This fundamental difference may have contributed decisively to a policy process that was easy to understand and follow, particularly from an ordinary citizen point-of-view. As a practical implication, we may conclude that new policy processes benefit from autonomy, simplicity and transparency, not only in the formulation stage, but also in what concerns its implementation and monitoring.

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