

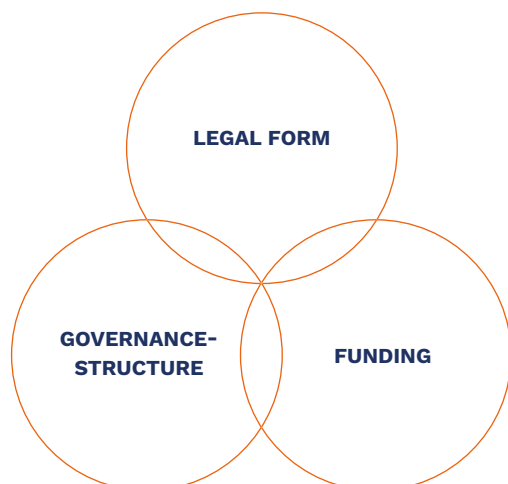


Institutionalisation of Multi-Stakeholder Partnerships (MSP)

Tips and Tricks

By working together in multi-stakeholder partnerships, government, business, civil society, and academia can tackle the complex challenges of the 2030 Agenda together. But how can such a partnership be meaningfully institutionalized?

Three elements of the institutionalisation of MSPs



Based on a peer-learning workshop, this document provides practical tips and advice from existing partnerships. The workshop took place in Bonn, Germany in June 2018 and was organised by the Multi-Stakeholder Partnership (MSP) Platform Partnerships2030.

For the institutionalisation of an MSP, the legal form, the governance structure and funding are important elements that influence each other.

An initial issue to consider is when and why to institutionalize an MSP. The institutionalisation of an MSP is not an end in itself, but a step in the partnership process. Institutionalisation becomes useful or necessary, such as the possibility to jointly fundraise and jointly spend funds.

1. Legal form¹

Several options of a legal form are available for MSPs. Multi-stakeholder partnerships have a charitable purpose, which influences the choice of the legal form. Some possible legal forms under German law are:

- A registered association (German: eingetragener Verein or e.V.) – such as the Forum for Sustainable Cocoa,
- A foundation – such as the German Global Compact Network,
- A non-profit limited liability company (gemeinnützige Gesellschaft mit beschränkter Haftung gGmbH) or
- A civil law partnership (Gesellschaft bürgerlichen Rechts or GbR).

¹ The section legal form is based on the input by Prof. Dr. med. Hans-Josef Vogel, lawyer at Beiten Burkhardt Rechtsanwaltskanzlei mbH, during the workshop in June 2018. By making this information available to third parties, GIZ assumes no responsibility for the topicality, correctness, completeness or quality of the information provided.

The following key questions are helpful for considering the legal form in Germany:

1. Are sufficient basic assets available to pursue the purpose?
Yes? → Foundation conceivable.
No? → Foundation not possible.
2. **Is there a fairly stable group of people?**
Yes? → A non-profit limited liability company (gGmbH) conceivable.
No? → Association (e.V.) more suitable.
3. **Is (non-profit) economic activity the goal?**
Yes? → (g)GmbH.
No? → Association (e.V.).

Additionally, the following questions are relevant for the German context:

1. **Does an MSP always have to have a legal form?**
No. A cooperation is also possible without legal form.
2. **When does an MSP have a legal form?**
A partnership is automatically regarded as a civil law partnership (GbR) as soon as several (at least two) parties promote a common purpose through contributions. A proactive choice of legal form is generally recommended. Emerging MSPs should deal with this topic in due time.
3. **What do I need to know about a civil law partnership (GbR)?**
If there is no contract, the rules on the GbR from the Civil Code (Bürgerliches Gesetzbuch or BGB) apply, §§ 705-740 BGB. However, these rules do not always fit. According to the law, each shareholder can terminate the GbR at any time, without a secured continuation. In a GbR, the shareholders are also fully liable for the liabilities of the partnership.
4. **Does the legal form affect the governance structure of an MSP?**
Yes, depending on the legal form, there are mandatory and subsequent regulations that affect the right to vote and the forms of liability. It makes sense to consider the legal form, the governance structure and the funding as a whole.
5. **Which legal form should an MSP choose if it operates and implements mainly in countries other than Germany?**
This depends on the countries in which the MSP operates. One of the many options is a Swiss association, which may prove useful for many organizational units, an International Association under Belgian law (a legal form chosen by many NGOs working in the EU) or the foundation model under Dutch law.
6. **What else should be considered?**
The following questions should be noted:
 - Who should be essential – the members or the board?
 - Which decision mechanisms are wanted? Options are consensus, majority vote with simple or qualitative majority and a right of veto.
 - How are funds collected? How are they taxed?

As soon as the actors have agreed on certain structures, a form of cooperation and a long-term goal of the MSP is clear, it is helpful to seek legal advice in order to discuss the specific legal options available and to clarify the next steps.

2. Governance-Struktur

The governance structure is another element of the institutionalization of an MSP. The purpose of a governance structure is to define joint decision-making and joint implementation. As MSPs deal with a wide range of sustainable development themes, partnerships and their objectives are also multifaceted. Therefore, there is no „one-size-fits-all“ governance structure that can be applied to all MSPs.

However, during the workshop and in the evaluation of various studies, it was apparent that certain structures and bodies are widespread, which are explained below. The governance structure should be kept as simple as possible to avoid unnecessary effort. Especially at the beginning, as well as in smaller MSPs, simplified versions of the bodies could be a good option.

General Assembly: The general assembly (also known as member forum or membership platform) usually unites all members and participants of the MSP. The general assembly provides space for exchange between the stakeholders, which often forms the foundation of the MSP through face-to-face meetings (usually 1–2 annually) or digital communication.

Other features include:

- Election of the steering committee,
- Mandating the steering committee and
- Adoption and signing of (public) obligations (such as memorandum of understanding or terms of reference defining tasks and duties of members).

Steering Committee: The Steering committee (also known as board, board of directors or steering group) is commonly the decision-maker of the MSP. The executive power is often shared equally amongst actors from the different stakeholder groups - government, business, civil society, and academia - to anchor the principle of equality in the governance structure. The members of the steering committee are typically elected by the general assembly. The steering committee is responsible for the strategic orientation of the partnership.

Other features include:

- Setting the decision mechanism (consensus, majority vote, right of veto, et cetera),
- Making decisions,
- Defining the strategy of the partnership,
- Administration of the budget,
- Commissioning of the secretariat for administrative and logistical work,
- Reporting to the general assembly on decisions as well as
- In some cases: Mandating the working groups on the content of the work.

Secretariat: The secretariat is a neutral actor in an MSP. In smaller MSPs, one or more partners sometimes fulfill this function, while larger MSPs often create a new body or organizational unit.

The secretariat is officially commissioned by the steering committee and usually performs the following functions:

- Process facilitation,
- Completion of administrative and logistical tasks,
- Preparation of general assembly and steering committee meetings,
- Assistance to the steering committee in decision-making, and the
- Processing of the reports of the steering committee and the general assembly.

Working groups: Some MSPs integrate working groups as bodies in their governance structure. They develop content and prepare working proposals. Individual members often team up voluntarily and based on interests. Through the use of working groups, the secretariat is relieved of the content-related work, which ensures neutrality.

Working groups typically perform the following functions:

- Development of content based on a mandate by the steering committee,
- Content and preparation for the steering committee, and the
- Reporting the results to the general assembly and the steering committee.

3. Funding

The question of funding is often pressing for both new and established partnerships. The gathering of stakeholders into a partnership is often initially accomplished through short-term (1–3 years), mostly external (donor) funding, unless start-up capital already exists. In terms of sustainability, it is advisable to ensure longer-term funding of the partnership.

This can be further helped by avoiding full funding from a single financier. However, long-term funding and avoidance of a single financier in practice often turns out to be difficult. It has proved helpful to consider tax implications of the legal form at an early stage.

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For further tips and tricks for MSPs please check:

→ [First Steps](#) and → [Impact and Impact Assessment](#).