

# Independent Reporting Mechanism (IRM): Netherlands Design Report 2018–2020

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## Executive Summary: Netherlands

The Netherlands third action plan includes a diverse set of commitments, with a particular focus on local governance. Civil society provided significant input during the co-creation process through the multi-stakeholder forum, as well as via direct consultations with relevant central or local authorities. Going forward, the OGP process in the Netherlands could benefit from more high-level political ownership and stronger synergies across commitments. The next action plan could address topics such as beneficial ownership, lobbying transparency, and whistle-blower protection.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. The Netherlands joined OGP in 2011. Since, the Netherlands has implemented two action plans. This report evaluates the design of the Netherlands' third action plan.

### General overview of action plan

The Netherlands third action plan was co-created in a consultative process and started getting shape in the summer of 2017. Dozens of in-person meetings, as well as one online consultation, were organized with stakeholders and various sectors of society. Furthermore, the Netherlands established a multi-stakeholder forum that was involved with the development of the third plan and its subsequent monitoring and evaluation.

The action plan includes a diverse set of commitments, with a focus on open government at the local level. In addition, it explores emerging themes, such as the use of algorithms for the public good and using technology and innovation to improve government performance. The third action plan also includes one commitment undertaken by the Dutch parliament.

Notable commitments include work geared to improving access to information of local councils and improve the transparency around the financing of local politics. Other notable commitments include piloting digital democratic tools in a number of places and exploring if algorithms used by government can be made more open and understandable to society and piloting the Open Contracting Data Standard (OCDS).

#### Table 1. At a glance

Participating since: 2011  
Action plan under review: 3  
Report type: Design  
Number of commitments: 11

#### Action plan development

Is there a Multistakeholder forum: Yes  
Level of public influence: Collaborate  
Acted contrary to OGP process: No

#### Action plan design

Commitments relevant to OGP values: 10 (91%)  
Transformative commitments: 1 (9%)  
Potentially starred: 1 (9%)

#### Action plan implementation

Starred commitments: N/A  
Completed commitments: N/A  
Commitments with Major DIOG\*: N/A  
Commitments with Outstanding DIOG\*: N/A

\*DIOG: Did it Open Government?



**Table 2. Noteworthy commitments**

<b>Commitment description</b>	<b>Moving forward</b>	<b>Status at the end of implementation cycle.</b>
<b>1. Open decision-making in municipalities and provinces</b>	This commitment plans to publish information on local councils with the goal of covering all municipalities in the Netherlands. Moving forward, civil servants could be trained in the use of the new digital tools to ensure that the level of ambition is achieved.	<i>Note: this will be assessed at the end of action plan cycle.</i>
<b>2. Local party financing</b>	This commitment plans to improve the transparency of local political party financing. Moving forward, stakeholders could consider linking this theme to the broader discussion on the lack of financial support for local political parties in the Netherlands.	<i>Note: this will be assessed at the end of action plan cycle.</i>
<b>6. Open Algorithms</b>	This commitment aims to develop an international best practice and help understand the algorithm decision-making in government. Future work in this area could more directly address ethical dilemmas of bias.	<i>Note: this will be assessed at the end of action plan cycle.</i>
<b>10. Open Contracting</b>	This commitment aims to pilot the Open Contracting Data Standard (OCDS) and explore its feasibility for wider application in the Netherlands. Moving forward, the government could perform a detailed needs assessment on which specific areas of public procurement could benefit from using OCDS. It could also consider scaling up this practice for future tenders to improve transparency.	<i>Note: this will be assessed at the end of action plan cycle.</i>

## Recommendations

The IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan.

Table 3. Five KEY IRM Recommendations

Enhance thematic coordination and combine relevant commitments with significant overlap so that the process becomes more harmonized and coherent
Seek higher-level political participation in the design and implementation process; frequently reach out to relevant politicians, parliamentary commissions, political party institutes, etc.
Take action on beneficial ownership and lobby transparency
Include relevant public bodies from special municipalities at the Dutch Caribbean
Improve the performance of the Dutch Whistleblower Authority in accordance with the 2019 EU directive on whistleblower protection

## ABOUT THE AUTHOR

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**The Open Government Partnership (OGP)** aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.



## **I. Introduction**

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

The Netherlands joined OGP in 2011. This report covers the development and design of the Netherlands third action plan for 2018-2020.

The Independent Reporting Mechanism of OGP has partnered with Bart Scheffers, an independent researcher, who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology please visit

<https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

## II. Open Government Context in The Netherlands

The Netherlands is traditionally among the top performers on indices of good governance and anti-corruption. It was an early OGP member and through its previous action plans made commendable strides on open data. At the same time, recent scandals around political corruption, the mishandling of whistleblowers, government officials withholding information, and Dutch banks facilitating money-laundering operations have emerged in the media. The third action plan addresses some important and timely policy areas but does not address ongoing conversations on the public agenda such as lobbying transparency, beneficial ownership transparency, and whistleblower protection.

The Kingdom of the Netherlands is a bicameral parliamentary democracy, as well as a constitutional monarchy, with a long tradition of coalition government. It is a decentralized state, with significant functions executed by local levels of government that are currently comprised of 12 provinces and 355 municipalities. Within the Kingdom, there are also overseas territories, Aruba, Curaçao, and St Maarten, which are autonomous countries within the Kingdom, whereas Bonaire, St Eustatius, and Saba are special municipalities of the Netherlands. The OGP action plan, as well as referenced indices and reports, typically only deal with the European part of the Netherlands.

The Netherlands is a well-developed economy with strong democratic traditions. Rule of law is currently ranked as the fifth-best worldwide,<sup>1</sup> and corruption is perceived to be very low, with less than 4 percent of respondents saying they are personally affected by corruption, the lowest in the European Union (together with Denmark).<sup>2</sup> Transparency International also ranks the Netherlands within the global top 10 (as least corrupt) in its Corruption Perceptions Index (CPI).<sup>3</sup> The Netherlands also scores highly on OGP's four eligibility criteria: access to information, fiscal transparency, public officials' asset disclosure, and citizen engagement.<sup>4</sup>

Local governance, a priority area for the third OGP action plan, is regulated by national legislation from the 1990s, which was revised in 2002 when the so-called system of dualism was introduced. Local councils, which are the Municipal Council (*Gemeenteraad*) and the Provincial Council (*Provinciale Staten*), hold exclusive legislative power and control their respective executive boards: the Board of Mayor and Aldermen (*College van Burgemeester en Wethouders*) and the Provincial Executive (*Gedeputeerde Staten*). This system is analogous to national decision-making, where the parliament holds legislative power and exercises control over the government.

The fundamentals of freedom of association, freedom of assembly, and freedom of expression remain deeply enshrined in the Dutch constitutional order. In addition, media freedom is highly-regarded, with the Netherlands ranking fourth in the Reporters Without Borders' 2019 Press Freedom Index.<sup>5</sup> The country is also considered among the freest countries in the world by Freedom House. Citizens, for their part, can play a direct role in the legislative process. The so-called citizens' initiative allows citizens to set issues on the political agenda of parliament, provided the relevant criteria are met.<sup>6</sup> The Netherlands does not currently have binding referendums, and after much political debate, the consultative referendum, which was established in 2015, was abolished in 2018 over fears that it is counter-productive and limits democracy.<sup>7</sup>

In case of complaints about specific government responses or behaviour, there is an independent National Ombudsman with a sizeable office that can investigate, mediate, and advocate for citizens. The Ombudsman is a legally regulated position and is appointed directly by the parliament.<sup>8</sup>

Despite this positive picture, some recent scandals have received media attention. In 2018, Dutch authorities surveyed at least three journalists in three separate cases without the permission of a judge.<sup>9</sup> In addition, as has been raised in earlier IRM reports, whistleblower protection remains a sensitive area of public sector integrity. A recent inquiry by the National Ombudsman, commissioned by parliament, into the functioning of the Dutch Whistleblowers Authority (*Huis voor Klokkeluiders*) made a number of recommendations to improve the implementation of its mandate.<sup>10</sup> It also revealed that the agency continues to face persistent challenges (some of which have been

raised in previous IRM reports). Examples of poorly handled cases of whistleblowing include the 2014 scandal around the WODC (Research and Documentation Centre) of the Ministry of Justice. One of their researchers blew the whistle on undue government interference and explained that some reports were steered to meet political goals on sensitive topics, such as drugs and crime. Later, it became known that the whistleblower had been wire-tapped and that separate criminal investigations were launched into leaks to media about the case.<sup>11</sup> In 2019, a whistleblower in the Dutch tax office, who shared essential pieces of information for court proceedings, was accused of breaching his professional secrecy and subjected to disciplinary leave.<sup>12</sup> This was related to a case in which hundreds of parents were wrongly accused of committing fraud with childcare allowances. As a result, these individuals not only lost the allowance they were entitled to but were also erroneously forced to repay tens of thousands of euros, which often led to a situation of unmanageable debt.<sup>13</sup>

### **Access to information and accountability**

Freedom of information is currently regulated via the Transparency of Administration Act (*Wet openbaarheid bestuur – Wob*), nationwide legislation that essentially applies to all governing bodies. The law dates back to the 1980s and governs both active and passive public access to information. Under the law, anyone can demand the disclosure of information related to administrative matters provided the information can be found in ‘documents’ that are in the possession of an administrative authority. However, disclosure can be denied under various conditions, for instance, if disclosure would endanger the security of the state or would reveal sensitive commercial information entrusted to state bodies. Requests can also be denied on more ambiguous grounds, such as when disclosure would ‘disproportionally disadvantage’ economic or financial interests of the authority involved, as well as when it would endanger the unity of the crown.<sup>14</sup> As a result, the law’s precise scope and applicability remain subject to continuous legal interpretation by magistrates that preside over appeal cases. The ‘Global Right to Information Rating’ has ranked the Dutch law at 74 (out of 128 assessed freedom of information legislations).<sup>15</sup>

In addition, over the past few years, the law has been subject to political debate. In 2016, specific amendments were made to prevent abuse and discontinue penalties that authorities had to pay if they did not respond to requests in time.<sup>16</sup> Furthermore, the law was considered outdated and was therefore put up for review. A legislative draft was adopted by parliament in 2012 to replace the *Wob*.<sup>17</sup> The draft law (*Wet openbaarheid bestuur – Woo*), has implications beyond freedom of information alone. It will introduce new regulations, including standard, proactive disclosure of vast amounts of government information. At the same time, the draft *Woo* that was under discussion back in 2012 has been significantly stripped of its initial features. External observers have repeatedly expressed concerns that the new law (as was eventually submitted to parliament in amended form in early 2019) does not address existing shortcomings and its scope and applicability is far less ambitious than it should be.<sup>18</sup> The draft law is expected to enter into force in 2020.

The handling of complaints by public entities such as municipalities, police, or tax authorities, etc.) in the Netherlands is received by the General Administrative Law Act. Currently, all public entities must have in place their own public complaints-handling procedures. However, there is no standardized method across all entities for handling complaints or for publishing data about complaints received.

### **Anti-Corruption**

In line with relevant international treaties, the Dutch penal code has established multiple forms of bribery as a criminal offence.<sup>19</sup> Bribery of public officials as well as bribery by private actors, and associated crimes such as extortion and rent-seeking via kickbacks, are also penalized. The offences are prosecuted by the Netherlands Public Prosecution Service (*Openbaar Ministerie*). The country does not have a designated, specialized anti-corruption agency. In 2015, however, the prosecution service appointed a special coordinating prosecutor for corruption. In 2016, an extra EUR 20 million was made available to enforce actions against foreign bribery by Dutch companies. In addition to that, Dutch fiscal police (FIOD) established an Anti-Corruption Center in 2016. These developments were timely. Earlier on, the OECD had mentioned how foreign bribery allegations hardly led to the opening of investigations, and subsequently recommended that the Netherlands intensify its

enforcement efforts.<sup>20</sup> To date, there has been significant prosecution, including large settlement agreements, such as the infamous Vimpelcom and Telia cases, whereby the accused settled with Dutch authorities for a historic EUR 400 and 247 million respectively over bribery charges with Uzbek officials.<sup>21</sup> <sup>22</sup> Another landmark case, which has been (and continues to be) widely covered in national media, is that of former Alderman Van Rey, accused of corruption and influence peddling.

Generally, the legal framework for anti-corruption provides the necessary legal tools to prosecute corruption offences. The enforcement of anti-corruption laws has substantially improved. Nevertheless, and notwithstanding these important advances, Transparency International maintained its 2018 ranking of the Netherlands as only 'limited' in its efforts to limit the 'export' of corruption, citing concerns, among others, over the facilitating role the Dutch mailbox firms play in global corruption, the absence of a comprehensive beneficial ownership register, and inadequate whistleblower protection.<sup>23</sup>

In 2019, the Dutch government has made some strides around the topic of beneficial ownership transparency. It has, for instance, banned the use of so-called bearer shares and formulated a national anti-money laundering strategy.<sup>24</sup> The most important steps are yet to be taken, however. Currently, most Dutch companies are not obliged to disclose the identity of their shareholders or ultimate beneficial owners (UBO). This is set to change in 2020, following the transposition of the Fifth EU Anti-Money Laundering Directive.<sup>25</sup> In line with the requirements under this directive, the Netherlands will launch a UBO register.<sup>26</sup> It should be noted that Dutch overseas territories are, owing to their special status, not subject to these regulations and the upcoming UBO register does not apply to companies incorporated there, such as trusts.

Another issue frequently raised in the Netherlands is that of lobby transparency. At the time of writing, there is no real lobby register (there is only a register for lobbyists accessing the parliament), and encounters between the private sector and the executive, for instance, are not regulated. Research by the Dutch non-profit Centre for Research on Multinational Corporations (SOMO) found that lobby groups in the Netherlands have extensive influence over Dutch government policies.<sup>27</sup> An often-mentioned example is the 2018 plan by the government to remove the dividend tax, a move that was widely believed to be the result of extensive corporate lobby efforts, and after much consternation, was withdrawn. The government also withstood a vote of no-confidence in this context after it appeared that not all information available had been shared with parliament, which included information requested by researchers earlier (and at first rejected) through a FOIA request. That information was then made public after the researchers appealed the decision (and meanwhile received political traction).<sup>28</sup>

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<sup>1</sup> World Justice Project, WJP Rule of Law 2019, <https://worldjusticeproject.org/our-work/publications/rule-law-index-reports/wjp-rule-law-index-2019>

<sup>2</sup> European Commission, Public opinion,

<https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2176>

<sup>3</sup> Transparency International, Corruption Perceptions Index 2018, <https://www.transparency.org/cpi2018>

<sup>4</sup> Open Government Partnership, Eligibility Criteria & OGP Values Check Assessment, updated 18 July 2019,

<https://www.opengovpartnership.org/process/joining-ogp/eligibility-criteria/>.

<sup>5</sup> Reporters Without Borders, 2019 World Press Freedom Index, <https://rsf.org/en/ranking>

<sup>6</sup> [https://www.tweedekamer.nl/zo\\_werkt\\_de\\_kamer/uw\\_mening\\_telt/burgerinitiatief](https://www.tweedekamer.nl/zo_werkt_de_kamer/uw_mening_telt/burgerinitiatief)

<sup>7</sup> <https://www.rijksoverheid.nl/actueel/nieuws/2018/07/10/raadgevend-referendum-ingetrokken>

<sup>8</sup> <https://www.nationaleombudsman.nl/de-nationale-ombudsman/wie-is-de-nationale-ombudsman>

<sup>9</sup> <https://www.nvj.nl/nieuws/afluisteren-journalist-flagrante-schending-bronbescherming-journalisten>

<sup>10</sup>

<https://www.nationaleombudsman.nl/system/files/bijlage/2019.10.01%20brief%20aan%20minister%20Ollongren%20van%20BZK%20mbt%20Adviesvraag%20Huis%20voor%20Klokkenluiders.pdf>

<sup>11</sup> <https://www.detegel.info/2018/de-wodc-affaire/>

<sup>12</sup> <https://www.trouw.nl/nieuws/belastingdienst-pakt-klokkenluider-opvangtoeslag-aan>

<sup>13</sup> <https://www.volkskrant.nl/nieuws-achtergrond/staatssecretaris-snel-treedt-af-er-is-ontzettend-veel-niet-goed-gegaan-bcc0ee81/>

<sup>14</sup> [https://wetten.overheid.nl/BWBR0005252/2018-07-28/#HoofdstukV\\_Artikel10](https://wetten.overheid.nl/BWBR0005252/2018-07-28/#HoofdstukV_Artikel10)

<sup>15</sup> <https://www.rti-rating.org/country-data/Netherlands/>

<sup>16</sup> <https://zoek.officielebekendmakingen.nl/dossier/34106>

<sup>17</sup> <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2012Z14073&dossier=33328>



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- 18 <https://www.vvoj.org/2019/11/18/roger-vleugels-wet-open-overheid-grote-blamage/>
- 19 <https://www.fiod.nl/wat-is-corrupctie/>
- 20 OECD, Netherlands must significantly step up its foreign bribery enforcement, says OECD, <https://www.oecd.org/daf/anti-bribery/netherlandsmustsignificantlystepupitsforeignbriberyenforcementsaysoecd.htm>
- 21 <https://www.om.nl/@93225/vimpelcom-betaalt/>
- 22 <https://www.om.nl/actueel/nieuwsberichten/@100343/internationale-0/>
- 23 Transparency International, Exporting Corruption – Progress Report 2018, [https://www.transparency.org/whatwedo/publication/exporting\\_corruption\\_2018](https://www.transparency.org/whatwedo/publication/exporting_corruption_2018)
- 24 <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/06/30/plan-van-aanpak-witwassen>
- 25 European Union Directive 2018/843, 30 May 2018, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018L0843&from=NL>.
- 26 <https://www.rijksoverheid.nl/onderwerpen/financiele-sector/ubo-register>
- 27 <https://www.somo.nl/abdup-an-influential-lobby-for-dutch-multinationals/>
- 28 <https://www.trouw.nl/nieuws/toch-memo-s-over-omstreden-afschaffing-van-dividendbelasting-b62b1b82/>

### III. Leadership and Multi-stakeholder Process

The Ministry of the Interior and Kingdom Relations continued to coordinate the OGP process in the Netherlands for the third action plan. The Ministry delegated important tasks to ancillary bodies, while maintaining its leadership in coordinating consultations to establish the action plan priorities, launch the multi-stakeholder forum, and obtain approval at the relevant levels of government. The co-creation process was highly collaborative, with extensive consultations and stakeholder meetings over the course of almost one year.

#### 3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in the Netherlands.

The main government office for coordinating the Netherlands' OGP participation is the Ministry of Interior's Democracy Department, which is part of the Directorate for Democracy and Administration (*Directie Democratie en Bestuur*). The office works towards assuring a properly functioning democratic system, in particular concerning the role of citizens and elected officials. The Directorate falls under the Directorate-General for Administration, Spatial Planning and Housing.<sup>1</sup> In its OGP work, however, important tasks are sub-contracted to the *Leer- en Expertisepunt Open Overheid-LEOO* (Learning and Expertise Centre Open Government), which in turn was<sup>2</sup> part of a special implementation agency established by the government to carry out IT projects, the so-called ICTU.<sup>3</sup> As part of this arrangement, HR capacity and financial resources have been made available for both LEEO and the policy team on open government.

The OGP action plan has been integrated into a wider government program called 'Democracy in action', with a total budget of EUR 11 million. It has the relevant Minister's support and has been presented to parliament.<sup>4</sup> The plan as such is not legally mandated by parliament, however, various elements of the plan are part of important legislative initiatives and processes in parliament.

Generally, all interviewees considered the Ministry as the right gateway for OGP-related work and perceive its leadership to be appropriate. At the same time, most interviewees from both civil society and local government expressed a desire for a higher level of political leadership and commitment, for instance, during the launch of the co-creation processes or during important OGP-related events in the country. The absence of this dimension in OGP work in the Netherlands make it sometimes difficult to fully capitalize on OGP's potential and means it can be perceived as a more isolated, politically less relevant endeavor in the country.

OGP leadership in the Netherlands remained with the Ministry of Interior and Kingdom Relations (Directorate for Democracy and Administration), and except for some staff turnover, there have been no structural changes. There are no dedicated staff that work on OGP. Rather, OGP-related work is integrated into the existing workflow, and when needed, additional resources for coordination are made available to LEEO.

#### 3.2 Multi-stakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. The Netherlands **did not** act contrary to OGP process.<sup>5</sup>

Please see Annex I for an overview of Netherlands performance implementing the Co-Creation and Participation Standards throughout the action plan development.

**Table 3.2: Level of Public Influence**

The IRM has adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.<sup>6</sup> This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

Level of public influence		During development of action plan
<b>Empower</b>	The government handed decision-making power to members of the public.	
<b>Collaborate</b>	There was iterative dialogue AND the public helped set the agenda.	✓
<b>Involve</b>	The government gave feedback on how public inputs were considered.	
<b>Consult</b>	The public could give inputs.	
<b>Inform</b>	The government provided the public with information on the action plan.	
<b>No Consultation</b>	No consultation	

### Multi-stakeholder forum

The Dutch multi-stakeholder forum was established in 2017 and comprises three civil society organizations (one of which has a rotating seat) and three government bodies; two decentralized ones (one municipality and one province) and the Ministry of the Interior and Kingdom Relations which presides over the forum. In addition, Utrecht University is a member.<sup>7</sup> The LEOO is involved in coordinating its meetings, reporting, and general communications.

Stakeholder meeting reports, and updates on the work more generally, are disseminated via the open government portal open-overheid.nl. The mandate of the forum is clear, it acts as a consultative body in the design and implementation of the action plan and aims to provide networking opportunities and a safeguard mechanism to keep stakeholders on track vis-à-vis the commitments made. At the time of writing this report, the forum does not have formal rules of procedure and it meets in person around four times a year, but with more frequent informal interaction via email lists, etc. There is no remuneration or reimbursement of expenses for participation in the forum.

### Participation and engagement throughout action plan development

Compared to the second action plan, the government’s engagement with non-government stakeholders improved significantly during the third action plan process. During the co-creation process, the Ministry of Interior and Kingdom Relations via LEOO and the Directorate for Democracy and Administration were responsible for setting up coordinating meetings and the general outreach and communication. LEOO maintained the national open government website that contains the OGP repository and provided input on content (given that it implemented two commitments itself in the previous action plan). An extensive overview of all the meetings and proceedings can be found online.<sup>8</sup>

Following the above-mentioned structure, formal preparations began around August 2017 to develop the new OGP action plan for the period of June 2018 – June 2020. In its deliberations, the Ministry wanted to concentrate on commitments that would improve government openness and transparency, while also being relevant to open government within the OGP framework.<sup>9</sup> Furthermore, broad ownership of commitments was desired, ideally with more stakeholders taking the lead. In addition, overall coherence was important. It was considered that a larger number of individual commitments would have less impact compared to fewer commitments that correlate well to each other and could complement each other.<sup>10</sup>

Simultaneously, LEOO started informal discussions among existing commitment-holders around April 2017. LEOO developed a clear timeline and produced a visually clear overview of the process which was shared online and in hard copy with a broad range of stakeholders.<sup>11</sup> In September 2017, LEOO organized the first meeting with the newly established multi-stakeholder forum where participants brainstormed possible themes for the new action plan. LEOO subsequently circulated a scoring sheet where all members could indicate what priority they gave to the possible commitments that followed the brainstorm session. LEOO also clearly communicated to stakeholders the deadline for submitting feedback in order for their contributions to be considered.

Aside from civil society, many other non-government stakeholders were formally consulted during the development of this action plan. In October 2017, for instance, the Ministry of Interior convened with media partners to gather input on what (investigative) journalists and media in general consider important regarding open government. Among others, attention was given to the needs of smaller local media outlets and the challenges they face in accessing government-held information.<sup>12</sup> From November 2017 until March 2018, similar meetings were organized for representatives of municipalities, provinces, youth, and government departments.<sup>13</sup> Another essential part of the process was an online consultation held in November 2017 via the *Nederland denkt mee* community. Its findings were shared and contributed to the discussion around what topics would be prioritized.<sup>14</sup>

Altogether, 10 meetings were held, both in The Hague and Utrecht, via the multi-stakeholder forum and subsequent draft versions of the action plan were continuously shared with the forum. Eventually a short-list of possible commitments was presented in March 2018 during the so-called preview meeting. During this meeting, discussions were held to fine-tune and sharpen pre-selected commitments, and potential commitment-holders presented their proposals to a larger audience. In addition, the Ministry of Interior urged all stakeholders to think about scale and size, about how the work could involve citizens, and to make sure that commitment indicators were measurable and verifiable.<sup>15</sup> The draft plan was then finalized by the Ministry of Interior and Kingdom Relations, who presented a final list of the selected commitments for feedback, including the reasons why these commitments were included (and why others were excluded). This selection process was also discussed in a forum meeting before it was sent to the OGP Secretariat.

It is notable that private sector parties appear absent from these discussions, which is a missed opportunity. To a lesser extent, this also applies to academia, who are represented in the multi-stakeholder forum but have no actionable role or resources to deepen their engagement. In addition, the discussions have only focused on the European part of the Netherlands, even though the Ministry of Interior and Kingdom Relations is also involved with the governance of the overseas territories. In that relationship, which is complicated and politically sensitive given the history, themes around public sector integrity and transparency and effectiveness of government are frequently tabled. And although some overseas territories are responsible for good governance and legal affairs, the Dutch government in 2017 launched a legal instrument called the “chamber of integrity” for St Maarten. This body has supervisory and advisory duties, and can give binding advice to the government of St Maarten on how to deal with specific issues.<sup>16</sup> Furthermore, in 2018, Dutch authorities dissolved local democracy in St. Eustatius, citing concerns of lawlessness, financial mismanagement, and a general ‘gross neglect of duty’.<sup>17</sup> The central government plans a ‘gradual return to a normal administrative situation’ and recently announced it will hold local elections on the island in October 2020.<sup>18</sup> Additionally, in 2019, the central government appointed a special program manager for Bonaire.<sup>19</sup> This appointment followed an earlier agreement to address the island’s poor finance management and low quality of governance.<sup>20</sup> Future OGP work could provide a neutral and international framework to alleviate the challenges experienced in these overseas territories, and boost inclusivity in the overall Dutch OGP work.

A final point, raised earlier in this IRM report, is the limited political energy this work currently enjoys in the Netherlands. The commitments are verified and vetted by relevant senior civil servants at the Ministry, but explicit and repeated political endorsements have not been observed.

Overall, however, there was significant parity and inclusion throughout these meetings. Compared to the previous action plan's development process, the Netherlands made more meaningful efforts to listen to a variety of groups in society and used this input in the design of the third action plan. The combination of dedicated stakeholder meetings, an online consultation, and the numerous gatherings at various local administrative levels all support this conclusion. The IRM researcher's interviews with participating stakeholders corroborated the comprehensiveness of the process. CSO groups felt their contributions mattered and influenced the design of the action plan. There are also direct links in the action plan to issues that were raised in the online consultation, such as the significant public interest to engage more directly in local government via apps or other digital tools. In terms of level of public influence, therefore, the process is considered as 'collaborate'.

### **Co-creation and participation recommendations throughout development**

The third action plan co-creation process in the Netherlands saw timely consultations for a broad variety of stakeholders to provide input on the draft commitments. In particular, the symbiosis of an online consultation with the numerous, well-reported deliberations in the multi-stakeholder forum, has led to commitments that are mutually beneficial for both government agencies and civil society. At the same time, and owing to the forum's nascent character, membership has thus far been limited and by government invitation only.

Furthermore, by having a dedicated agency responsible for outreach and coordination, and having done so in a timely fashion, the overall process of development was inclusive. Interviewees mentioned that often they were not always able to join all MSF meetings, but could generally retrieve what was discussed in their absence via the online reports and emails afterwards, and that LEOO was accessible and responsive to questions.

Some areas where the Netherlands can improve are:

- Selection of NGO members; at this point, the group includes a number of 'usual suspects' that to some extent pursue similar objectives as government (and may have a business relationship outside the MSF doing paid work for some involved government agencies on such thematic work). While it is conducive to establish good partnerships with organizations with experience in these issues, open government discussions could benefit from the inclusion of stakeholders that have diverging views;
- Provide more dedicated resources to forum members, so they do not have to compromise their regular tasks as part of their membership;
- Formalize the forum, including its mandate and procedures.

In order to improve performance on these areas, the IRM researcher suggests that the following actions be taken:

- Consider opening up the forum to more interested parties via a transparent and clear mechanism;
- Consider reimbursing civil society stakeholders in the MSF for expenses such as travel and overhead costs for participating in the forum's meetings;
- Consider setting up more formal rules of procedure or establish the forum with legal personality with articles of association. Explicitly include procedures on how decisions are made, what status they have, and ensure those discussions and decisions are publicly shared and archived.

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<sup>1</sup> <https://www.rijksoverheid.nl/ministeries/ministerie-van-binnenlandse-zaken-en-koninkrijksrelaties/organisatie/organogram/directoraat-generaal-bestuur-en-wonen>

<sup>2</sup> LEOO has recently been merged into the Leer- en Expertisepunt Datagedreven werken (Learning and expertise center on data-driven work).

<sup>3</sup> <https://zoek.officielebekendmakingen.nl/kst-27510-1.html>

<sup>4</sup> <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/07/05/kamerbrief-plan-van-aanpak-voor-versterking-lokale-democratie-en-bestuur>

<sup>5</sup> Acting Contrary to Process - Country did not meet (1) "involve" during the development or "inform" during implementation of the NAP (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.

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- <sup>6</sup> “IAP2’s Public Participation Spectrum,” IAP2, 2014.  
[https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum\\_8.5x11\\_Print.pdf](https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf).
- <sup>7</sup> <https://www.open-overheid.nl/multi-stakeholder-forum/>
- <sup>8</sup> <https://www.open-overheid.nl/actieplan-open-overheid-2018-2020-verslaglegging-documenten-en-nieuws/>
- <sup>9</sup> Interview with Ministry of Interior staff, September 2019.
- <sup>10</sup> idem
- <sup>11</sup> <https://www.open-overheid.nl/actieplan-open-overheid-2018-2020/>
- <sup>12</sup> <https://www.open-overheid.nl/open-overheid/media-gesprek-nieuwe-actieplan-open-overheid/>
- <sup>13</sup> <https://www.open-overheid.nl/actieplan-open-overheid-2018-2020-verslaglegging-documenten-en-nieuws/>
- <sup>14</sup> [https://www.open-overheid.nl/wp-content/uploads/2017/08/Community\\_rapportage-BZK-Open-overheid\\_V2.0.pdf](https://www.open-overheid.nl/wp-content/uploads/2017/08/Community_rapportage-BZK-Open-overheid_V2.0.pdf)
- <sup>15</sup> <https://www.open-overheid.nl/open-overheid/wat-merkt-de-burger-van-deze-actiepunten/>
- <sup>16</sup> <https://www.rijksoverheid.nl/actueel/nieuws/2017/04/07/integriteitskamer-voor-sint-maarten>
- <sup>17</sup> <https://www.government.nl/latest/news/2018/02/05/central-government-intervenies-on-st-eustatius>
- <sup>18</sup> <https://www.government.nl/latest/news/2019/09/24/new-elections-to-be-held-next-year-on-st-eustatius>
- <sup>19</sup> <https://english.rijksdienstcn.com/latest/news/2019/february/13/danny-rojer-starts-march-4th-2019-as-program-manager-for-governmental-agreement-bonaire?>
- <sup>20</sup> <https://www.trouw.nl/nieuws/ook-bonaire-komt-onder-curatele-van-nederland~bf0ab55b/>

## IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.<sup>1</sup> The indicators and method used in the IRM research can be found in the IRM Procedures Manual.<sup>2</sup> A summary of key indicators the IRM assesses is below:

1. **Verifiability:**
  - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
  - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
2. **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
  - **Access to Information:** Will the government disclose more information or improve the quality of the information disclosed to the public?
  - **Civic Participation:** Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
  - **Public Accountability:** Will the government create or improve public facing opportunities to hold officials answerable for their actions?
  - **Technology & Innovation for Transparency and Accountability:** Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
3. **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
4. **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.
5. **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.

### What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem? Rather than describing an administrative issue or tool (e.g., 'Misallocation of welfare funds' is more helpful than 'lacking a website.').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26 percent of judicial corruption complaints are not processed currently.")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")?

### Starred commitments

One measure, the “starred commitment” (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment’s design should be **verifiable, relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the *Implementation IRM report*.

### General Overview of the Commitments

The Netherlands’ third action plan focused mainly on local governance, in particular by highlighting three priority areas: I) Open decision-making at municipalities and provinces; II) strengthening the transparency of political party funding as part of decentralized governance; and III) pioneering network for an open government for municipalities.

The IRM has listed the II commitments in the order they appear in the Dutch version of the third action plan.<sup>3</sup> This order differs from how the commitments are listed in the English version.<sup>4</sup>

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<sup>1</sup> “Open Government Partnership: Articles of Governance,” OGP, June 2012 (Updated March 2014 and April 2015), <https://www.opengovpartnership.org/articles-of-governance/>.

<sup>2</sup> “IRM Procedures Manual,” OGP, <https://www.opengovpartnership.org/documents/irm-procedures-manual>

<sup>3</sup> The Netherlands Action Plan 2018-2020, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_Short\\_NL.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_Short_NL.pdf) (in Dutch).

<sup>4</sup> The Netherlands Action Plan 2018-2020, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf) (in English).



## **I. Open decision-making at municipalities and provinces**

### **Language of the commitment as it appears in the action plan:**

1. The Open State Foundation (OSF) has been working with the Association of Netherlands Municipalities (VNG) and the Ministry of the Interior (BZK) to release Municipal Council Information from more than 100 municipalities as open data since 2013. A standard for making this information uniformly available as open data is in its completion stage. This is an action point from the Dutch national Action Plan for Open Government for January 2016 – June 2018.
2. In the first six months of 2018, five Dutch provinces made their Provincial Council Information available as open data. More provinces now wish to join this initiative and provide access to Provincial Council Information as standardised open data.
3. Provinces want to make their Provincial Council Information more easily accessible to strengthen the democratic process. This action point intends to have provinces make their Provincial Council Information available according to a standard that is similar to the standard that has been developed for municipalities. This serves local residents, community organisations, intermediaries and the media. Since it involves the same type of information and the same suppliers, an intergovernmental standard should be prepared for Open Decision-making.
4. Open Decision-making will enable all kinds of different parties to create applications that will contribute to participation, transparency or accountability by reusing data.
5. And furthermore, it will make it easier for elected representatives to search in their own and other representatives' documents.<sup>1</sup>

### **Milestones**

1.1. The leading group of participating provinces will release Provincial Council Information based on the current Popolo standard.

1. Development of the search engine for Open Provincial Council Information, based on Open Raad API and the Open Raad search engine
2. Since early 2018, more than 100 Dutch municipalities have provided access to their municipal council information as open data, using an initial standard. VNG Realisatie will finalise the standard on Open Municipal Council Information and will enter into agreements with suppliers as to the implementation of this standard. As the same time, VNG Realisatie will be conducting an impact analysis together with KOOP for assuring the project as regards governance, the funding model, the management of standards, and its infrastructure.

1.2. Education and scaling up to other provinces.

1. VNG Realisatie will finalise the information analysis with KOOP and will propose an action plan to intergovernmentally safeguard and scaleup Open Decision-making and will also start implementing the approved plan for scaling up.
2. Expansion of the Open Municipal Council Information standard to a definitive intergovernmental standard for Open Decision-making in conjunction with the VNG.

1.3. Organisation of app challenge in the run-up to the Provincial Council elections in 2019 (March).

1.4 Intergovernmental assurance of the project, standard and infrastructure. Scaling up to all 12 provinces and 380 municipalities

Note: Other authorities, such as water authorities and community schemes, are free to join this action point.

Start Date: July 2018

End Date: July 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
I. Overall		✓	✓			✓				✓	Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

Over the years, Dutch governance has become more decentralized, with the sub-state levels (currently 12 provinces and 355 municipalities) gaining increased responsibility over vast areas of government competence, such as employment, housing, local infrastructure, and welfare. The Municipalities Act (*Gemeentewet*) and Provinces Act (*Provinciewet*) stipulate that council decisions should be made public via the ‘usual’ way, without specifying how precisely such disclosure should take place. In practice, many municipalities disclose council decisions via pdfs on their websites, though not in a uniform and consolidated format. The law does not require other information, such as meeting agendas, meeting minutes, etc., to be made public. In addition, both laws provide a mechanism for local authorities to designate certain meetings, as well as the minutes of such meetings, as secret until further notice.

At the same time, the Netherlands has legislation on the freedom of information - the Transparency of Administration Act (*Wet openbaarheid bestuur – Wob*). The law governs both active and passive public access to information. Under the law, anyone can demand the disclosure of information related to administrative matters, provided the information can be found in ‘documents’ that are in the possession of an administrative authority. Disclosure can be denied under certain conditions, for instance, if it would endanger the security of the state or reveal sensitive commercial information, as well as when it is deemed to endanger the unity of the crown.<sup>2</sup> In 2012, parliament adopted a draft law to replace the above-mentioned legislation on freedom of information.<sup>3</sup> The draft law (*Wet open overheid – Woo*) will introduce new regulations, including standard disclosure of various local government information, such as documents pertaining to local council meetings.

This commitment continues from a commitment in the second action plan (2016-2018), which aimed to commission a pilot whereby local council information would be shared in a standardized, machine-readable format.<sup>4</sup> The commitment is clear about the broader societal relevance and how such information can help strengthen the transparency and general connection between citizens and public administration. The planned activities are specific and verifiable. The first milestone, for instance, describes what data standard will be used (Popolo) as well as the goal. Milestone 1.4 mentions the need to increase the reach of this project to all municipalities by the end of 2020. The commitment is therefore relevant to the OGP value of access to information.

Upcoming legislation (*Woo*) could resolve one of the challenges identified in an earlier IRM report, namely the difficulty of making sure all municipalities take part. Explicitly linking the commitment to the *Woo* would be helpful, as the draft legislation provides a legal framework that was deemed absent, and (with time) could secure each municipality’s participation in the proposed work.

Earlier stakeholders such as the ‘*Vereniging van Griffiers*’ (the Dutch association for municipal registrars) appear to be either no longer or less formally involved. As one of the key (end)users of such new databases, it is unclear whether prospective future users have been properly consulted in order to secure their early buy-in and readiness to adopt the standard. For the high ambition to become reality, thousands of civil servants will likely need to be trained in new digital tools and

systems, and possibly change the way they enter data and/or manage their processes. However, considering its planned ambition, the commitment's potential impact could be transformative.

### **Next steps**

The IRM researcher recommends retaining the current level of ambition while better accounting for possible technical issues, staff turnover, and the absence of political leadership. In addition, it would be worth considering broadening the group of stakeholders, re-including the association of registrars, and reaching out to local citizen groups to seek their input. This would be important for assessing the needs for improving skills and capacities among various user-groups early on.

In addition, the IRM researcher learned from several interviewees that there is a significant role for a select group of IT companies that provide the digital tools for these databases. Financial matters aside (the changes and development of these new tools will require resources), it is unclear how this may impact the eventual roll-out of the new standards, and whether specific IT risks such as system inter-operability need to be addressed. Some stakeholders mentioned to the IRM researcher that clients (local authorities) could leverage their relationship with these providers to secure their commitment for efficient and cost-effective development of new IT tools. The IRM researcher concurs with this assessment and also recommends that not only costs should be kept in check, but financial gains also made clear as much as possible. Such an approach could demonstrate that transparency is not a cause in itself but can help to make government more efficient and lower its operating costs. These considerations currently appear not to be fully captured in the design of the commitment.

Finally, information is only useful when its consumers are well aware of the value of the disclosed information. Not everybody has an intimate understanding of the local decision-making process or knows the difference between a motion and an amendment, how they are adopted or rejected, what limitations there are, etc. The IRM researcher therefore recommends seeking early collaborations and synergies with institutions such as ProDemos, or "Lokaal" to investigate the use of these data for educational purposes.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> [https://wetten.overheid.nl/BVBR0005252/2018-07-28/#HoofdstukV\\_Artikel10](https://wetten.overheid.nl/BVBR0005252/2018-07-28/#HoofdstukV_Artikel10)

<sup>3</sup> <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2012Z14073&dossier=33328>

<sup>4</sup> Commitment 6, [https://www.opengovpartnership.org/wp-content/uploads/2017/07/Netherlands\\_NAP-Appendix\\_2016-2018\\_EN\\_revised-with-changes.pdf](https://www.opengovpartnership.org/wp-content/uploads/2017/07/Netherlands_NAP-Appendix_2016-2018_EN_revised-with-changes.pdf)

## 2. Transparency of the funding of decentralised or local political parties

### Language of the commitment as it appears in the action plan:

1. To increase and improve the transparency of the funding of decentralised and local political parties.
2. BZK is going to develop a tool in consultation with representatives of decentralised political parties and local governments. These parties will be able to use this instrument to draft and implement the mandatory regulations on donations and to increase transparency with regard to their cash flows on a voluntary basis.<sup>1</sup>

### Milestones

- 2.1. BZK is going to gauge the concrete need of decentralised and local political parties and local governments and use the results to map these needs.
- 2.2. BZK is going to develop a support tool in consultation with decentralised and local political parties and local governments.
- 2.3. The support instrument will be implemented and rolled out.
- 2.4 BZK will map the extent to which transparency about the funding of decentralised and local political parties has improved.

Start Date: July 2018

End Date: July 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
2. Overall		✓	✓						✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

Public funding for decentralized or local political parties currently does not exist in the Dutch legislation governing the financing of political parties. Only parties who have elected members in either the Second or First Chambers are eligible for financial support from the state. Local and/or decentralized political parties are currently exempted from articles 20-23 of the Dutch Financing of Political Parties Act.<sup>2</sup> This means that they are not required to register financial contributions and can accept large donations without disclosing such contributions to the public. In a 2007 evaluation, the Council of Europe's Group of States against Corruption (GRECO) recommended that the Netherlands "take measures to enhance transparency of income and expenditure of political parties at local level."<sup>3</sup>

In addition, over the past few years, Dutch society has witnessed a number of local politicians accused of corruption or other malign practices, such as influence peddling<sup>4</sup> or acting in a conflict of interest, such as the Hooijmaijers<sup>5</sup> and Van Rey affairs.<sup>6</sup> Furthermore, there have been reports that organized crime and, for instance, the proceeds of the synthetic drug trade, can find their way to the licit world and financially support politicians at the local level.<sup>7</sup> Some initiatives by mayors of affected cities have already been deployed to raise more awareness of such risks.<sup>8</sup>

Against this backdrop, this commitment addresses a highly relevant topic in the Netherlands by aiming to improve the quality and transparency of local governance. It is relevant to the OGP value of access to information, given that previously unavailable information could be disclosed. The milestones are verifiable; for instance, milestone 2.2 mentions that a support tool will be developed in consultation with other stakeholders. From the text it is not immediately clear, however, what the tool is and what it is going to help with. In the explanatory text of the commitment, it mentions it will function as an instrument to increase transparency on donations and cash-flow on a voluntary basis, although it aims to be used to draft and implement mandatory regulations. While it is not specific enough to assess the potential impact as transformative, if this initiative picks up political momentum and is embedded in legislation, this might very well be the case. For now, the potential impact is assessed as moderate.

### Next steps

The IRM researcher recommends the following:

1. Stakeholders could look at both income and expenditures of money in politics. Income is particularly relevant from an anti-corruption point of view when considering the possibility of buying influence. In terms of undermining trust and undue influence on the policy process, in-kind donations, political endorsement in the semi-public arena, such as in sports and business, are essential to consider as well. The definition of monetary support to and by a political party would likely need to be reworked, possibly beyond the current legal understanding. The GRECO report also refers to both income and expenditure as areas in which to improve transparency.
2. Stakeholders could consider linking this theme to the broader discussion regarding the lack of financial support for local parties. Many stakeholders, including the VNG who are a partner in this commitment, have argued that the state should make financial support available to local/decentralized parties from the central government. By linking the two, one might increase the buy-in for municipalities and could provide political partners (from the entire political spectrum) with the needed ammunition to mobilize political leadership for both topics and present this as a cross-cutting issue. Furthermore, increased transparency, coupled with appropriate financial support to fund local democracy, could significantly enhance integrity in party financing at the local level.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://wetten.overheid.nl/BVBR0033004/2019-02-23#Paragraaf2>

<sup>3</sup> Group of States against Corruption (GRECO), Evaluation Report on the Netherlands on “Transparency of Party Funding”, <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c7965>

<sup>4</sup> <https://www.nrc.nl/nieuws/2012/11/17/ons-gepolder-werkt-corruptie-in-de-hand-12579101-a1268134>

<sup>5</sup> <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2017:222>

<sup>6</sup> <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2016:5281>

<sup>7</sup> [https://www.noordhollandsdagblad.nl/cnt/dmf20181022\\_75017111/crimineel-aast-op-politieke-invloed](https://www.noordhollandsdagblad.nl/cnt/dmf20181022_75017111/crimineel-aast-op-politieke-invloed) and

<https://www.nemokennislink.nl/publicaties/criminelen-proberen-gemeenteraadsverkiezingen-te-infiltreren/>

<sup>8</sup> <https://prodemos.nl/nieuws/verslag-college-paul-depla-uit-de-praktijk-van-de-burgemeester/>

### 3. Pioneering Network for an Open Government for Municipalities

#### Language of the commitment as it appears in the action plan:

1. Meetings will be held every three months. The venue can differ from meeting to meeting.
2. Each meeting will address different topics and can take on different forms. E.g.: a knowledge session with an expert or an Open Government lab addressing a real-life case study according to Design Thinking. A conference preceded by a call for papers is also possible. Another option is to organise a meeting aimed at residents once a year and invite them to come to the town hall for the meeting.
3. Every meeting will have a guest chair. This will be a municipality from the Pioniersnetwerk.
4. It should be explored whether/how an online platform might support the pioneering network, or whether this might be done through the website of the LEOO (open-government.nl).<sup>1</sup>

#### Milestones

3.1. Q1-Q2 2018 Preparing concrete plans, writing to municipalities, mapping topics.

3.2. Kicking off the pioneering network

3.3. Eight meetings on specific topics, one every three months (including reports + publication of the reports on open-government.nl)

3.4 Interim evaluation among participating municipalities.

3.5. Online magazine with lessons learned and practical experiences(2x).

Start Date: January 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
3. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

#### Context and Objectives

The municipality of Schiedam has been proactively pioneering open government in the Netherlands at the local level. Since 2016, its local council, as well as executive council, have adopted a number of policies and memoranda to open local government. Confidential documents are, for instance, virtually abolished<sup>2</sup> and Schiedam has prioritized strengthening local democracy and citizen democracy and open data in its work. In order to do so, they have also made EUR 75,000 available as part of an innovation budget for two years.<sup>3</sup>

In the spirit of this work, this commitment aims to establish a network of Dutch municipalities and their staff who are considered pioneers (such as Schiedam) in which they can share their experiences, knowledge, and thoughts. The idea is to connect them with their peers and help cultivate the energy and mentality that is conducive for such innovations to progress. It also mentions one would want to prevent reinvention of the wheel. Ultimately, the goal is for residents to have better access to information and feel more involved and better heard. Given the ambition to

boost overall transparency of government decision-making, it is relevant to the OGP value of access to information.

The goal and planned activities are verifiable. The commitment mentions a number of specific gatherings to be organized, and also includes monitoring and evaluation elements. At the same time, success is not clearly defined yet, as was also mentioned in interviews with government stakeholders. Furthermore, there could be thematic overlap with some of the other commitments in the action plan that are pioneering new tools to boost access to information and active citizenship (particularly Commitments 1, 5, 8, and 11). That overlap is not formally recognized in the design of the commitment, and as such coherence and possible synergies risk being lost during implementation. Therefore, the potential impact of the commitment is considered minor.

### **Next steps**

The IRM researcher recommends mapping the pre-requisites for success by explicitly linking the network to other relevant commitments in the action plan. In doing so, the IRM researcher recommends fleshing out how the network can also be complementary to such existing thematic activities, what members it aims to have (local leadership and on what level of seniority, political representatives or not, etc.), and explore what functions it could host (aside from convening perhaps also commission research, actively scout for pioneering initiatives throughout the country, etc.), and if and how the network should be institutionalized and what outputs its members would like it to have. These questions will also beg reflections on scale and budget. In addition, the IRM researcher recommends establishing formal contact with CSOs, particularly those from municipalities where pioneering activities are taking place and solicit their views and involvement in the sharing of experiences.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://www.schiedam.nl/a-tot-z/open-schiedam>

<sup>3</sup> idem



## 4. Open Parliament

### Language of the commitment as it appears in the action plan:

- To improve the accessibility and usability of parliamentary documents on the website of the House of Representatives, including access to parliamentary documents, by applying the European guidelines for digital accessibility, the Web Content Accessibility Guidelines (WCAG), to parliamentary documents.
- This improvement is not only intended for the target group of people with a functional or cognitive impairment, but for all users.<sup>1</sup>

### Milestones

- 4.1. Completion of an advisory report (analysis phase) on “no-threshold” publications on the website of the House of Representatives.
- 4.2. Project plan, incl. assigned budget, established.
- 4.3. Implementation of the project plan.
- 4.4. Conducting an audit.
- 4.5. Sharing knowledge and experiences gained while applying the European guidelines for digital accessibility.

Start Date: July 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
4. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

Assuring access to government websites, irrespective of possible disabilities or physical impairments, is an important part of making sure that open government works for everyone in society and every person can access important documents needed to take part in the democratic process. As such, the EU (as part of its obligations related to the Digital Single Market) requires member states to adopt legislation that requires websites of public sector bodies to meet the so-called Web Content Accessibility Guidelines (WCAG) 2.0 (level AA) standard. New websites must comply from 23 September 2019 onwards, and old websites from 23 September 2020 onwards.

In light of this directive, the Dutch parliament has committed to ensure its current website meets the WCAG standard. In that sense, the commitment is relevant to the OGP value of access to information. The planned activities and milestones are specific enough to be verified. They include the establishment of a needs assessment (4.1) and subsequent project plan (4.2, 4.3) including an evaluation after implementation of the project (4.4) and sharing best practices (4.5). The commitment does not mention the place within the broader open access portal of parliament,<sup>2</sup> to what documents it pertains (pdfs and videos are currently exempt), nor what the retention will be and what limitations there are to full retention (until what date/time one is able to retrieve



documents in the mentioned standard). It is therefore unclear what the exact baseline and possible problems were at the start of the project. It is therefore difficult to assess the potential impact beyond minor.

### **Next steps**

The IRM researcher recommends embedding such commitments in future action plans within the broader work on openness and accessibility of the Dutch parliament website. Commitments that would imply setting new standards, higher than the legal minimum required, on accessibility could be ground-breaking. In particular, efforts to enrich the current API on [opendata.tweedekamer.nl](https://opendata.tweedekamer.nl) with audio-visual content could be considered, given its current absence from the database. The general user-friendliness could be improved in consultation with end-users such as journalists, CSOs, national statistics office, etc.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://opendata.tweedekamer.nl/>

## 5. Open WOB: developing and implementing an Open WOB standard and an Open WOB dashboard

### Language of the commitment as it appears in the action plan:

At least ten government organisations should implement Open WOB.<sup>1</sup>

#### Milestones

5.1. Action plan established.

5.2. Recruitment and assembly of a leading group of government organisations that will implement Open WOB in their own organisations.

5.3. Drafting a standard (taking into account the different types of data) for access to WOB documents being provided by the Open State Foundation (OSF) and the leading group of government organisations in conjunction with VNG Realisatie and others.

5.4. Establishing a standard with VNG Realisatie and others.

5.5. Recruiting at least 10 government organisations in order to generate data and make it accessible in accordance with the standard.

5.6. Developing the technical part of Open WOB in order to support authorities, the standard, and the uploading of data from their sources at the authorities by OSF.

5.7. Entering into a Service Level Agreement and adding at least 10 government organisations for the security, management, and hosting of the platform.

5.8. Assuring the management function and advice about scaling up by .....

Start Date: September 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
5. Overall		✓	✓			✓		✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

#### Context and Objectives

Freedom of information is currently regulated in the Netherlands by the Transparency of Administration Act (*Wet openbaarheid bestuur – Wob*). The law governs both active and passive public access to information. Anyone can demand the disclosure of information related to administrative matters, provided the information can be found in ‘documents’ that are in the possession of an administrative authority. In recent years, the law has been subject to much political debate because it is outdated and its applicability on modern media/information carriers is not always clear. In addition, it was possible to abuse the instrument by requesting public information for purposes other than obtaining the public information (monetary gain, frustrating a traffic fine, etc.), which led to a change in applicable laws in 2016, namely abandoning fines for not responding in time to *Wob* requests.<sup>2</sup>

The law is the most used instrument available to citizens, journalists, and/or activists to probe both the national and local government for specific information. The law also provides for redress, so that

if a government body refuses to disclose certain information, one can litigate to try to get the information. This aspect of the law is frequently used by activists and journalists and means its legal interpretation and jurisprudence is continuously evolving.

*Wob* requests are addressed to the authority/unit deemed to be in the possession of the requested information. As such, a baseline on the total amount of *Wob* requests at the local level is unavailable. Various parts of the same local government (i.e. a municipality) can be addressed (also simultaneously) and get involved in the management of a *Wob* request. As such, it is also not clear whether specific information had already been disclosed under an earlier *Wob* procedure. Importantly, the *Wob* is scheduled to be replaced by the *Woo* (see Section II: Country Context in this report), which will retain these functions but, at the same time, the government is required to make significantly more information proactively available. The way the government information is stored and archived is important for the smooth and efficient management of *Wob* (and future *Woo*) procedures. Currently, this is done mostly digitally through so-called document management systems (DMS).

Against this backdrop, the Province of Noord-Holland, in collaboration with the Open State Foundation and VNG *realisatie*, aim to spearhead the development and implementation of an Open *WoB* standard and dashboard. This commitment has clear and verifiable milestones that aim to establish a pioneering group that could pilot the implementation of the standard (milestone 5.2), to outline technical requirements for such a standard (5.3) with a view to ultimately roll the standard out to more organizations on a new, open-source platform. This work is relevant to the OGP values of access to information and, depending on how comprehensive the platform will be, to technology and innovation for transparency and accountability.

The main goal of this commitment is to improve government transparency regarding requests for information by proactively publishing decisions to *Wob* requests on the new dashboard. This commitment could produce meaningful insights into what the various data standards are and where they are different. However, it is uncertain if other municipalities will use this model. DMS systems are at the core of this work and are often commercial products developed by market players with extensive experience in such implementation. These players appear to not be formally consulted in this work. As such, there is a risk of following a self-appointed course without having made sure that such experience and insights are accounted for, or future compatibility and system inter-operability are coordinated with the providers of DMS infrastructure.

An additional challenge is answering the question for whom this is a useful database, and what lessons were learnt from previous initiatives (such as *bigwobber*). End-users have only been marginally consulted. One interviewed expert argued that journalists and activists are probably not interested in such a dashboard, as long as there is no link to the legal reality, for instance, with data on how the procedure went, if there was an appeal, or in what instance and what legal deliberations the court had.<sup>3</sup> In conversations with government representatives, it also appeared that this commitment could have a secondary effect of reducing the number of *Wob* requests, which place significant strains on (local) authorities' resources.<sup>4</sup> However, due to the technical nature of the work and limited capacity to resolve that in a pilot without significant resources and private sector involvement, coupled with limited consultations with envisioned end-users, the commitment's potential impact is considered minor.

### **Next steps**

Given this context, the IRM researcher recommends the following:

1. Flesh out a baseline study and set clear deliverables for the overall objectives in order to recognize possible diverging agendas, manage expectations, and create clarity about the value added of the work for different stakeholders.
2. Reconsider engaging in this field in its current form, only continue the networking on data standards and DMS systems compatibility at a central level (and include private sector parties here), while keeping current players informed.

3. Only consider the launch of a new dashboard if there is a demonstrated demand for such a tool expressed by end-users such as activists, (local or investigative) journalists, researchers, lawyers in Fol litigation, etc.
4. Broaden the group that is consulted in this work and reach out to relevant parts of the judiciary (for instance, magistrates or their interest groups dealing with *Wob*).
5. Consider a more general inquiry on the practice of freedom of information in a European, comparative perspective. Examine if the general Dutch view on necessary resources (staff, budget) are enough to carry out the function and ambition of the law.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://www.open-overheid.nl/open-overheid/eerste-kamer-stemt-in-met-afschaffen-dwangsom-wet-openbaarheid-van-bestuur/>

<sup>3</sup> Interview with Roger Vleugels, 26 November 2019.

<sup>4</sup> Interview with Jamil Jawad (VNG), 3 October 2019.

## 6. Open Algorithms

### Language of the commitment as it appears in the action plan:

Drafting and mapping frameworks and guidelines for government organisations as a tool for making algorithms openly available. A decision tree will be drafted as a result of these frameworks and guidelines. The aim is to apply these frameworks, guidelines and the decision tree in a pilot while publishing some algorithms.<sup>1</sup>

### Milestones

- 6.1. Task force prepared. Two meetings organised. Action plan drafted.
- 6.2. Workshop focusing on sharing knowledge. Completion of the report: mapping and analysis of the playing field; legal, technical aspects; analysis of actors.
- 6.3. Completion of a draft report on frameworks and guidelines on open algorithms; draft decision tree (graphic); one algorithm open (pilot).
- 6.4. Completion of a final report on frameworks and guidelines, including decision tree; one to three algorithms open.
- 6.5. 3-5 workshops during the term of the project aimed at sharing knowledge

Start Date: July 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
6. Overall		✓	✓			✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

In 2014, the Rathenau Institute<sup>2</sup> published a report stating that, at that point, government, regulators, businesses, and society at large were insufficiently equipped to deal with many new digital challenges. The report argued that transparency over algorithmic decision-making is increasingly important in order to prevent their possible manipulation.<sup>3</sup> Two years later, the Netherlands Scientific Council for Government Policy (WRR) published a report providing recommendations to the Dutch government on how to deal with the increasing role of big data, artificial intelligence, and algorithmic decision-making vis-à-vis privacy, security, and transparency.<sup>4</sup> The Dutch government concurred with most recommendations, including that algorithms used for big data-analyses should be ‘appropriate’ and meet certain criteria, and are preferably scientifically validated. The government also agrees that algorithms need to be transparent for reasons of oversight and legal supervision.<sup>5</sup> The extent to which algorithms are used, however, appears to be unknown. In October 2017, following debate in parliament where concerns were expressed over possible bias in algorithms and whether specific regulation should be put in place, the government committed to stocktaking and mapping the use of algorithms in government practice, including eventual challenges and dilemmas.<sup>6</sup>

Against this backdrop, the third action plan features a commitment on open algorithms and has been inspired by an introspective view by civil servants themselves. The commitment text mentions how big data is increasingly impacting decision-making in the public sector and how that currently is not a transparent process. Such reflections, and the ensuing self-appointed internal investigation on how

technological solutions that support public decision-making can be more transparent, are relevant for the government on the use of such technologies going forward. It is therefore relevant to the OGP values of access to information and technology and innovation for transparency and accountability.

Through this work, involved organizations intend to draft guidelines for government agencies on how to make algorithms openly available and develop a decision tree to assist in such a process. The planned activities are specific and verifiable, however only generally. Planned activities, such as the organizing of workshops and mapping the playing field (6.2), as well as drafting a report on guidelines and a pilot open algorithm (6.3, 6.4), do not explain in detail the commitment's broader objective, or what criteria will drive the referenced decision tree for selecting the pilot algorithm. In addition, from the text it is unclear if linkages exist to the broader policy context and the studies and discussions mentioned above. While the commitment, as written, is unlikely to significantly change thinking around how algorithms are used in central government decision-making, the activities could provide an important first step towards greater algorithm transparency. The potential impact is therefore considered moderate.

### Next steps

While recognizing that algorithmic transparency is a highly complex matter, both from a technical and political point of view, the IRM researcher recommends the following steps:

- Involved stakeholders could draw more on existing bodies of domestic work in this area, and where possible join forces so that duplication of efforts can be prevented, and valuable lessons learnt can directly feed into broader policy discussions at the national political level;
- Consider refining and sharpening the objectives of the work towards pioneering algorithmic accountability and transparency, including a mapping (or drawing on the mapping exercise commissioned by the government) of the most impactful or important algorithms influencing government decision-making (high-value datasets) and specifically target such algorithms in future work, as well as explicitly seek to audit such algorithms for undesirable results or bias;
- Following the 2014 Rathenau report, the IRM researcher suggests exploring what it would take for citizens to be made 'future-proof' and directly involve citizens and CSOs in this work. That way, we can better assess what skills or knowledge citizens are missing that inhibits their developments of 'technological citizenship'.<sup>7</sup>

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> The Rathenau Institute is an independent Dutch research institute managed under the auspices of the Royal Netherlands Academy of Arts and Sciences, funded mainly by the government. <https://www.rathenau.nl/en/about-us/who-we-are>

<sup>3</sup> <https://www.rathenau.nl/nl/digitale-samenleving/maatschappij-niet-klaar-voor-digitale-samenleving>

<sup>4</sup> <https://english.wrr.nl/publications/policy-briefs/2017/01/31/big-data-and-security-policies-serving-security-protecting-freedom>

<sup>5</sup> <https://www.tweedekamer.nl/kamerstukken/detail?id=2016D43893&did=2016D43893>

<sup>6</sup> <https://www.tweedekamer.nl/kamerstukken/detail?id=2018D16670&did=2018D16670>

<sup>7</sup> <https://www.rathenau.nl/nl/digitale-samenleving/technologisch-burgerschap-de-democratische-uitdaging-van-de-eenentwintigste>

## 7. Dilemma logic

### Language of the commitment as it appears in the action plan:

1. Awareness of the need to pay attention to dilemmas at an early stage and how to communicate this when developing policy ('dilemma logic').
2. Professionalisation of the presentation of dilemmas and the presence of administrators and civil servants
3. The initial focus is on national government, after which the initiative will be rolled out to other levels of government.<sup>1</sup>

### Milestones

#### 7.1. Exploration at ministries:

- workshops; education
- case studies (pilots)
- research tools (evidence)
- preparing a guideline for ministries

#### 7.2. Deeper development:

- Embedding in training courses, procedures for ministries and for the entire national government
- Learning network on [www.onscommunicatierijk.nl](http://www.onscommunicatierijk.nl)
- Information afternoon at the *Academie voor Overheidscommunicatie* (Academy of Government Information and Communication) (also for local authorities)

#### 7.3. Broader development:

- Guideline for local authorities
- Transfer of knowledge and skills

Start Date: February 2018

End Date: January 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
7. Overall		✓	Unclear					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

Professionals in the political sphere, ranging from elected officials to civil servants, often find themselves needing to explain unpopular decisions and policies to their constituents or communities. In addition, the rise of social media presents new challenges for those communicating political messages to the public. This commitment aims to better link the presentation of government policies to the level of satisfaction about government policy among citizens and entrepreneurs. By adopting the proposed method of 'dilemma logic' during the decision-making process, the ambition is to remedy perceived injustice and unfairness of government action and instill a sense of procedural fairness.<sup>2</sup> The commitment plans a number of activities that are verifiable, though only generally. These include organizing workshops, case studies, and developing guidelines for ministries (milestone 7.1), as well as organizing subsequent training sessions and

establishing a practitioners' network on a website for government officials working on communications (milestone 7.2). Finally, the plan is to scale this work up and roll out the sharing of knowledge and skills at the policy-making departments of ministries (milestone 7.3).

According to the government, the problem this commitment seeks to address is the perceived fear of disclosure dilemma's in the first phase of policymaking. However, and notwithstanding the difficulty to point to specific causes for citizens' mistrust and dissatisfaction with governments, the commitment's objectives would have benefitted from being drafted to identify a well-defined problem to be resolved. This could entail efforts to investigate what frames or messages are better received during the early stages of policy-making and instill trust and understanding in future government policy, and ideally where a baseline can be established, for instance through focus groups. The objectives for this commitment, however, are currently geared to defining project-related tasks as opposed to resolving problems around understanding and satisfaction with government policy. It is therefore difficult to assess the direct relevance of this commitment to the OGP values.

In addition, in order to understand a dilemma and apply logic reasoning, citizens need information in support of the various arguments and positions. If as part of dilemma logic, the government proactively releases to the public *all* documents at their disposal that shaped the thinking around a dilemma, this commitment would be transformative in its impact. At this point, however, deliberations at for instance the weekly council of ministers are designated state-secret under the Dutch Constitution and its minutes are classified for 20 years.<sup>3</sup> Furthermore, the ability to communicate government policy properly to the public may also have to do with individual skills and organizational culture. These aspects are not captured in the commitment nor is it clear how such skills and culture relate to dilemma logic and via what mechanisms. Therefore, the commitment's potential impact cannot be scored higher than minor.

### Next steps

Recognizing that this work is important for the way government cultivates relationships with its constituents, the IRM researcher recommends the following:

- Delineate the work better and integrate these insights into specific or concrete policy decisions or proposals. This is particularly relevant to Commitment 6 on open algorithms. Algorithms and their perceived fairness (or bias) are increasingly subject to political debate and activism. Social psychology and the concept of procedural fairness would provide an opportunity to test this in practice and link the opening of algorithms with the idea of dilemma logic.
- Apply specific research tools and hypothesis in future work, so that (e.g. via focus groups) one can learn and verify the value of information or datasets and its relevance for citizens to better understand specific government dilemmas. Such work could be an important contribution to the broader field of open government studies.
- Recognize that actions often still speak louder than words, and government action itself is a strong determinant of trust and satisfaction.<sup>4</sup> Subsequently the commitment would benefit from a reflection on the place of dilemma logic in the broader field of determinants of government trust and satisfaction.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> The Social Psychology of Procedural Justice. Springer US. 1988. Lind, E.Allan, Tyler, Tom R.

<sup>3</sup> <https://www.rijksoverheid.nl/regering/ministerraad/werkwijze-ministerraad>

<sup>4</sup> OECD, Statistics Working Papers, Trust and its determinants, [https://www.oecd-ilibrary.org/economics/trust-and-its-determinants\\_869ef2ec-en](https://www.oecd-ilibrary.org/economics/trust-and-its-determinants_869ef2ec-en)



## 8. ‘Open by Design’ pilots

### Language of the commitment as it appears in the action plan:

To achieve proper access to government information, it is important that openness and open standards are taken into consideration as much as possible when designing information systems. In order to establish what this means for information systems, experience will have to be gathered through a number of pilots. Open standards, open formats for reusability, meta data and linked data for findability and cohesion, privacy, security and accessibility are aspects that come into play here.

Some five to ten government organisations are therefore going to start pilots with ‘Open by Design’, where the openness of some categories of information is controlled and fine-tuned in the ‘engine room of public administration’.<sup>1</sup>

### Milestones

8.1. Recruiting participating partners, the goal is 5-10 authorities (ministries, provinces, municipalities, other implementing bodies).

8.2. Start of pilots in individual organizations.

8.3. Sharing of knowledge among participating organizations (semi-annual meeting).

8.4. Conclusions and recommendations for follow-up, per organization.

8.5. General conclusions and recommendations, advice on broad approach and roll-out.

Start Date: March 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
8. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

Proactive disclosure of government-held information, namely the principle that information is publicly available prior to a freedom of information request, is essential in fostering transparency and openness of government. In the Netherlands, disclosure of more data happened over time, for instance, as part of the previous action plan.<sup>2</sup>

This commitment aims to test in several decentralized governments whether previously undisclosed information can be opened ‘by design’ in order to fine-tune and control openness in public administration. However, while the milestones are verifiable overall, they are not specific. The work only mentions general activities such as starting a pilot (8.2), sharing knowledge among participants (8.3) and drafting and disseminating recommendations (8.4 and 8.5). It is also unclear via what mechanism disclosure it would take place and what exact information is envisaged. The introductory text mentions more detailed plans regarding the design of pilot projects and includes important guiding questions, such as what categories of government information are suitable for ‘open by design’, as well as enquiries on what technical tools and instruments would be required for its implementation. However, those deliberations and their possible answers were not carried over in

any of the milestones. Depending on the answers to those questions, sequencing could become an important consideration for the pilot to succeed, but this is not reflected on.

Provided that pilots proceed successfully, this work is relevant to the OGP value of access to information. Given the unclear formulation of the exact types of government information to be disclosed, the absence of a clear timeline, and description of the process that leads to information creation, its potential impact is scored as minor.

### Next steps

The IRM researcher recommends the following:

- Prioritize discussions over the right technical solution and challenges owing to the use of different systems across government, while linking it to sequence and milestones.
- Construct the pilots to provide answers on what a good portal for proactive publication looks like and functions. Involve and identify end-users as well as those that enter or manage the data currently; share ownership in going forward with such stakeholders.
- In consultation with citizens, CSOs, journalists, activists, etc., develop a list of information categories that are considered most valuable or important for open government; i.e. budget documents, commercial contracts, financial reports, and use that to select what information should first be made open by design and why.
- Explore the synergies with other commitments in the action plan. In particular *Open Raads Informatie*, *Open Wob* and *Open Contracting* could be considered as open by design pilots as they all deal with high-value topics (policy reports and documents, budget and contracts, freedom of information, etc.). In doing so, the government could actively seek to prevent duplication of efforts, and pool possible resources and goodwill, as well as promote shared solutions as much as possible, particularly with involved DMS experts and architects early on.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> Netherlands OGP Action Plan 2016-2018, Commitment 4: active publication of information, pg. 11, [https://www.opengovpartnership.org/wp-content/uploads/2017/05/LR\\_91332\\_Actieplan\\_ENG\\_v2\\_0.pdf](https://www.opengovpartnership.org/wp-content/uploads/2017/05/LR_91332_Actieplan_ENG_v2_0.pdf)

## 9. Joining the Extractive Industries Transparency Initiative (EITI)

### Language of the commitment as it appears in the action plan:

Joining the Extractive Industries Transparency Initiative (EITI) and implementing the EITI Standard in the Netherlands.<sup>1</sup>

#### Milestones

3.1 Registration as a candidate member of EITI

3.2 Approval of registration and obtaining the status of candidate member

3.3 Publication of EITI Report

3.4 Publication of progress reports (annual reports for international EITI board on EITI progress)

3.5 Ratification of membership (will not be within the period of the Action Plan for Open Government)

Start Date: April 2018

End Date: April 2021

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?			
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major
9. Overall		✓	✓	✓				✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.			

### Context and Objectives

Since the discovery of a gas field near Slochteren, in the Dutch province of Groningen, the Netherlands has been one of Europe's largest producers of natural gas. Natural gas is of vital importance in the Netherlands' national energy supply and gas sales have contributed approximately EUR 417 billion to the Dutch economy over the past 60 years.<sup>2</sup> In recent years, however, geohazard conditions in the area have deteriorated and induced earthquakes and land subsidence are more frequent. The Dutch government has therefore decided to cut the annual output of the Groningen gas fields and plans a complete decommissioning by 2022.

Information on Dutch gas extraction and its revenue has generally been transparent, given that state revenues are included in the national executive budget. However, the exact profits made by extractive companies have remained largely unclear, with revenues prior to 2006 being unknown.<sup>3</sup> Additionally, detailed financial reports are available only from 2016 onward following the entering into force of the EU Accounting Directive<sup>4</sup> in the Netherlands.

This commitment calls on the Netherlands to formally join the Extractive Industries Transparency Initiative (EITI), a multi-stakeholder initiative that promotes a global standard for the good governance of oil, gas, and mineral resources. The Netherlands has supported EITI since its inception in 2003 and has provided significant financial support to the initiative and/or its subsidiaries since 2007. Despite supporting EITI, however, the Netherlands is not actually a member itself. In 2011, the government indicated that it would implement the EITI standard (or a similar transparency initiative) and in late 2015 eventually committed to implement the EITI standard.<sup>5</sup>

This commitment's activities focus on the technical process of EITI membership, as well as publishing an EITI report and the annual reports on the country's progress in implementing EITI. The milestones are specific and verifiable, but it should be noted that the ratification of EITI membership

(the final milestone) is expected to occur outside the period of this action plan (by April 2021). The publication of extractive sector information in the EITI report makes the commitment relevant to the OGP value of access to information. Also, EITI membership will require the Netherlands to create a multi-stakeholder group consisting of government and civil society stakeholders, thus making the commitment relevant to civic participation.

Overall, joining EITI could lead to positive but minor improvements to transparency in the Dutch extractive sector. In interviews, government officials noted that much of the relevant data on the country's extractives sector is already public but scattered in different locations and not necessarily published in open data format.<sup>6</sup> EITI implementation could help improve that situation by consolidating and publishing extractives sector data in one central place. In addition, it also appears that existing EU legal frameworks (EU Disclosure Directive) provided an important push for reform, as opposed to EITI alone.

### Next steps

The IRM researcher recommends that involved ministries make a clearer division of labor for the EITI implementation. Currently, domestic extractives and their governance fall under the Ministry of Economic Affairs and Climate Policy, whereas the Netherlands' international EITI efforts fall under the purview of the Ministry of Foreign Affairs. Furthermore, if carried forward to future action plans, the government could improve the ambition of EITI commitments by creating a link between NL-EITI, and the “*Nationaal Programma Groningen*”, a government program meant to bring relief and economic stimulation for the affected region.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://www.cbs.nl/en-gb/news/2019/22/natural-gas-revenues-almost-417-billion-euros>

<sup>3</sup> <https://zoek.officielebekendmakingen.nl/kst-33529-31.html>

<sup>4</sup> Official Journal of the European Union, Directive 2013/34/EU, [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0034&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0034&from=EN)

<sup>5</sup> [https://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2015Z20448&did=2015D41564](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2015Z20448&did=2015D41564)

<sup>6</sup> Interview with Martijn Reubzaet (Ministry of Foreign Affairs), 4 October 2019.

## 10. Open Contracting (OCDS pilot)

### Language of the commitment as it appears in the action plan:

The action point entails a pilot in which two public procurement procedures, initiated by the central government, are selected and the extent to which the OCDS is, and can be, complied with for these procedures is checked. One of the procurement procedures has already been completed and the other one is still to be started. For the procurement procedure that has already been completed, the extent to which the OCDS has been complied with has been verified. As regards the new procurement procedure, a study is being made of what is needed in order for it to be carried out in accordance with the OCDS. Weighing the costs and benefits of full compliance with the OCDS is part of the pilot. The pilot serves three goals:

- To establish how and where the Netherlands complies with the OCDS
- To indicate any improvements that can still be made by the central government as regards the OCDS.
- To indicate where the Netherlands is a “Best Practice”.

The pilot offers the opportunity to share knowledge and expertise at an international level.<sup>1</sup>

### Milestones

- 10.1. Project plan for pilot + decisionmaking
- 10.2. Start of project team and implementation of pilot
- 10.3. Interim report on pilot +decision-making
- 10.4 Final report with recommendations
- 10.5 Decision-making about recommendations

Start Date: July 2018

End Date: June 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
10. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

Government procurement of goods and services is significantly important to global business. The Netherlands are no exception, with an estimated government purchase volume of EUR 73.3 billion annually.<sup>2</sup> Dutch development aid also supports projects geared to open contracting in a variety of countries.<sup>3</sup> An essential feature that underpins many of those initiatives is the adoption of the Open Contracting Data Standard (OCDS), a standard currently not used by the Netherlands itself.<sup>4</sup> In 2015, a motion in parliament asked that future government procurements would correctly deal with relevant open standards.<sup>5</sup> In 2017, a study by the Ministry of Interior stated that as far as public contracting was concerned, there was little awareness of such standards within relevant agencies.<sup>6</sup>

This commitment therefore aims to pilot OCDS and explore if the Netherlands can comply with the standard. The work is carried out by the Ministry of Interior in partnership with relevant CSOs (such as Hivos). The commitment is relevant to the OGP values of access to information, civic participation, and technology and innovation for openness and accountability. At the same time, the commitment's activities and milestones, though specific and verifiable, are not driven by explicit objectives to improve efficiency in purchase management or to resolve specific risks such as corruption or over-pricing.

If successfully completed, the pilot could improve general awareness of the practical usability of OCDS, as well as promote broader use of the standard in the Netherlands. In turn, this is considered conducive for improving access to information on government spending and could leverage broader citizen participation and scrutiny over procurement. It could also support the government's efforts to mitigate corruption risks and improve cost-efficiency in procurement contracts. However, the objective is quite general, namely indicating where the Netherlands is a best practice in open contracting. In addition, it is unclear what the pilot itself exactly entails, aside from exploring what OCDS means for Dutch procurement, or if it will look at a specific sector or area of government procurement. Furthermore, the commitment explains how topics such as sustainability and social impact are to be integrated but does not explain in detail how this will be operationalized. Finally, it remains unclear how the completion of the pilot could translate into the full adoption of OCDS usage in the Netherlands. As such, the potential impact has been scored as moderate.

### Next steps

The IRM researcher recommends the following:

1. Perform a more detailed needs assessment and draw on existing studies and evaluations in the Netherlands on which areas of public procurement are considered improvable. This would include a risk analysis and concrete priorities for future action. Such a scoping exercise should ideally seek the consultation of private parties (bidding on government contracts successfully and unsuccessfully), civil society, and procurement experts.
2. Select concrete tenders for specific areas or government functions for inclusion in the pilot. Moreover, clear criteria could be identified in consultation with the parties mentioned above and should seek to clarify whether OCDS compliant systems can help resolve or mitigate the issues identified in the needs assessment.
3. Given the government's explicit ambition to use its spending to also influence thematic issues such as sustainability, innovation, and social return, the IRM researcher recommends developing tools and instruments that could help gauge success in this respect. This could be done by providing answers to questions on the weight such themes should carry in designing tenders and evaluating bids, what to do in case of conflicting interests, and what exceptions should apply and why. These deliberations could be beneficial to the broader discussion on how governments source their goods and services, and could feed into discussions at the political level which are needed to drive eventual legislative change.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> <https://www.rijksoverheid.nl/documenten/rapporten/2016/09/08/het-inkoopvolume-van-de-nederlandse-overheid>

<sup>3</sup> Hivos people unlimited, Open Up Contracting, <https://www.hivos.org/program/open-contracting/>

<sup>4</sup> Open Contracting Partnership, Worldwide, <https://www.open-contracting.org/why-open-contracting/worldwide/#/nl>

<sup>5</sup> <https://zoek.officielebekendmakingen.nl/kst-33326-21.html>

<sup>6</sup> <https://www.rijksoverheid.nl/documenten/rapporten/2017/02/15/rapport-kenniscentrum-open-source-software>

## 11. Local digital democracy

### Language of the commitment as it appears in the action plan:<sup>1</sup>

The action point will lead to a testing ground for ‘Digital Democracy’ being implemented, serving the following objectives:

1. To vitalise democracy by demonstrably increasing the responsiveness of local authorities.
2. To explore the question of how to effectively add a digital channel to the existing participation approach.
3. To study which criteria successful participation tools should comply with.
4. To increase awareness among authorities of the risks and opportunities of digital democracy. To promote open source as the programming standard.

### Milestones

11.1. 5 to 10 municipalities have progressed through at least three digital participation paths using open source tools.

11.2. 5 to 10 municipalities have progressed through at least three digital participation paths using a closed source tool.

11.3. Signing of the ‘digital democracy manifesto’ by participating municipalities, BZK and VNG in order to record their commitment and vision regarding the promotion of digital democracy.

11.4 Establishing, in conjunction with VNG and ICTU, how the tools will be managed in future, including their technical management.

11.5 Adopting a joint approach to further scaling up, based on experiences

Start Date: April 2018

End Date: December 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
11. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

As stated in the action plan, the Netherlands aspires to implement more models of direct citizen participation in decision-making and (local) democracy. The University of Gothenburg’s V-Dem Institute ranked the country 43<sup>rd</sup> (out of 170 countries) in terms of participatory democracy in 2017.<sup>2</sup> In addition, national research conducted by the Netherlands Institute for Social Research, a government agency, also highlights the need for increased direct citizen participation in public policy and decision-making.<sup>3</sup> Citing a backdrop of decreased trust in political systems, and the desire to safeguard democratic representation and stability, this commitment aims to provide opportunities for new technologies and digital tools to strengthen transparency and responsivity of local authorities. In turn, this could improve the quality of local government and trust in government in general.

The commitment has clear and verifiable objectives and activities. Considering that the commitment will promote new technology and digital opportunities for public participation and collaboration in decision-making, it is relevant to the OGP values of civic participation, and technology and innovation for openness and accountability. Furthermore, given that specific information is needed when deliberating over policy making and such work may generally promote transparency of government decision-making, it is also relevant to access to information.

Overall, the commitment is considered to have a moderate impact on the values and practices mentioned above. Due to the limited size of the commitment, it has by design limitations in terms of potential impact. It may, however, create significant positive experiences in boosting citizen participation in local democracy provided that the commitment tools are effective and reliable. These tools, though not set in stone, may include digital platforms to host petitions and discussions, set local political agendas, or facilitate participatory budgeting. Such experiences may function as instigators for further pilots and drive an incremental, but important, norm-setting of digital participatory tools for (local) democracy.

### Next steps

The IRM researcher recommends the following:

1. Perform a more detailed plan for roll-out and consider targeting specific areas at the local level that have different denominators in terms of voter turnout, demographics, income distribution, etc.
2. Integrate risk-mitigation more actively, both in terms of managing expectations as well as related to computer literacy and the ageing of the population.
3. Link the pilot where possible with academic scholars and ongoing research in the area. This could help to further shape understanding on the extent that such initiatives can deliver on (re)building trust and democracy, as well as answer questions on whether these tools lend themselves to high-political themes.

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<sup>1</sup> The complete text of this commitment, [https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands\\_Action-Plan\\_2018-2020\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2018/11/Netherlands_Action-Plan_2018-2020_EN.pdf)

<sup>2</sup> V-Dem Institute, Democracy at dusk, [https://www.v-dem.net/media/filer\\_public/b0/79/b079aa5a-eb3b-4e27-abdb-604b11ecd3db/v-dem\\_annualreport2017\\_v2.pdf](https://www.v-dem.net/media/filer_public/b0/79/b079aa5a-eb3b-4e27-abdb-604b11ecd3db/v-dem_annualreport2017_v2.pdf)

<sup>3</sup> The Netherlands Institute for Social Research, More democracy, less politics?, [https://www.scp.nl/english/Publications/Summaries\\_by\\_year/Summaries\\_2015/More\\_democracy\\_less\\_politics](https://www.scp.nl/english/Publications/Summaries_by_year/Summaries_2015/More_democracy_less_politics)



## V. General Recommendations

This section aims to inform development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

### 5.1 IRM Recommendations

Looking ahead to future OGP work in the Netherlands, the following is an effort to zoom out and provoke thought and action on what can be done to meaningfully continue this thematic work. Based on these general observations and the substance of the third action plan, the following concrete recommendations are outlined below:

#### **Recommendations for the design of the next action plan**

The current action plan include activities from different streams of work that, in some cases, existed prior to the national OGP co-creation process. To maximize available resources and to seek synergies among existing initiatives, the IRM researcher therefore recommends screening future commitments for thematic overlap and consider combining relevant ones to ensure overall coherence (and prevent duplication of efforts).

Some of the work undertaken in the Dutch context of open government touches upon other international initiatives and strands of work, for instance GRECO recommendations (in the case of party financing, lobby transparency, among others), the United Nations anti-corruption convention (in particular on the legal aspects and prevention of corrupt practices), and OECD anti-bribery convention/FATF (on aspects of foreign bribery, and beneficial ownership for instance). This could also help to broaden the scope of involved stakeholders which has, for now, rarely included the judiciary or private sector. Moving forward, the IRM researcher recommends explicitly linking OGP commitments to relevant recommendations made by multilateral fora, such as the Council of Europe, the United Nations, and the OECD/FATF, to OGP work in the Netherlands in order to attract new stakeholders (i.e. prosecution, private sector).

OGP work in the Netherlands does not always enjoy much visibility or political weight, while many of the current commitments deal with issues around democratic innovation, the organization of (local) democracy and politically important themes such as freedom of (and access to) information, algorithmic decision-making, and public contracting. Going forward, the government could consider also engaging political players, while maintaining impartiality and refraining from endorsing specific viewpoints. For example, by inviting parliamentarians (or their staff), or political-party research institutes to join discussion meetings and share their views. This in turn could help lift OGP work to a higher level and secure commitment and political will needed to move proposed tools and measures to the legislature, which is needed for eventual and meaningful reforms.

The Netherlands, while faring well in rankings of good governance and anti-corruption, remains subject to frequent international criticism. Such criticism often refers to issues around fiscal transparency vis-à-vis corporate lobbying (as well as opaque tax rulings on e.g. interests and royalties) and the trust-sector with so-called letterbox firms (beneficial ownership). The current government has shown it is sensitive to such criticism and announced action,<sup>1</sup> and will establish a beneficial ownership register (in response to the relevant EU legislation). These topics would be well-suited for inclusion in the OGP framework and thereby also secure broader civic participation in the process of policy formation.

Equality and inclusion are important to both the Dutch government and OGP. Although small in size, the overseas territories are an integral part of the Kingdom and themes related to open government and public sector integrity are highly relevant there. However, it would not be realistic to expect or suggest full inclusion of these territories in the OGP co-creation and implementation processes. But, going forward, the IRM researcher recommends exploring if and how OGP work (e.g. open data tools and local democracy commitments) bears relevance for the Caribbean territories.

As discussed in Section II of this report, whistleblower protection remains an issue in the Netherlands. In particular, the Dutch Whistleblower Authority (established in 2016), which is responsible for handling whistleblower cases, continues to face challenges. Also, several recent whistleblower-related scandals (as explained in Section II) point to a need for the government to improve on this area. Therefore, the IRM researcher recommends including a commitment in the next action plan to improve the performance of the Dutch Whistleblower Authority. Particular attention could be paid to ensure that the Dutch Whistleblower Authority and the Netherlands comply with all requirements under the 2019 EU directive on whistleblower protection.<sup>2</sup>

Finally, in the framework of the Woo, the Netherlands could explore standardizing the publication of data from public entities on the complaints they receive and how these complaints are handled. Standardization could improve opportunities for cross-agency comparisons on complaints-handling. More data from public entities on the complaints they receive could provide greater insight into how public services function, what issues people frequently face, and how these issues tend to be resolved.

**Table 5.1: Five Key Recommendations**

1	Enhance thematic coordination and combine relevant commitments with significant overlap so that the process becomes more harmonized and coherent
2	Seek higher-level political participation in the design and implementation process; frequently involve relevant politicians, parliamentary commissions, political party institutes, etc.
3	Take action on beneficial ownership and lobby transparency
4	Include relevant public bodies from special municipalities in the Dutch Caribbean in OGP work
5	Improve the performance of the Dutch Whistleblower Authority in accordance with the 2019 EU directive on whistleblower protection

## 5.2 Response to Previous IRM Key Recommendations

**Table 5.2: Previous IRM Report Key Recommendations**

Recommendation	Responded to?	Integrated into Current Action Plan?	
1	Improve institutional and CSO participation in the OGP process	✓	✓
2	Include large agencies, Parliament and judiciary in the OGP process	✓	✓
3	Include legally binding commitments on disclosing information	✗	✗

4	Include civic participation commitments	✓	✓
5	Improve the performance of the “House of Whistleblowers”	✗	✗

In its design of the third action plan, the Netherlands integrated three of the five recommendations made in the previous IRM report from the second action plan (2016-2018). Institutional and civil society participation in the OGP process was improved during the co-creation, due to the establishment of the multi-stakeholder forum and the breadth of consultations. Parliament is included in the third action plan through Commitment 4 on Open Parliament. Additionally, the action plan includes several commitments that could improve civic participation, whereas the previous action plan only included one such commitment. It would be noted, however, that the commitments in the third action plan are primarily focused on access to information, and the civic participation components of these commitments are largely secondary to achieving their goals. The recommendations on including legally binding commitments on disclosing information and improving the performance of the “House of Whistleblowers” (Dutch WhistleBlower Authority) were not integrated.

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<sup>1</sup> <https://www.rijksoverheid.nl/actueel/nieuws/2018/11/06/kabinet-pakt-22-miljard-euro-belastingontwijking-aan-met-bronbelasting>

<sup>2</sup> Official Journal of the European Union, Directive 2019/1937, <https://perma.cc/UR9F-9AMU>

## VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in the Netherlands OGP repository (or online tracker), website, findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.<sup>1</sup>

### Interviews and stakeholder input

The IRM researcher interviewed, either in person or via the telephone, all commitment-holders except for one. A total of 23 persons were interviewed between 1 October 2019 and 28 November 2019. A detailed overview of these interlocutors can be found below. The conversations were all semi-structured interviews, whereby a set of pre-determined questions, which were part of an earlier submitted research plan, were presented and discussed. The meetings have not been transcribed.

Tom Kunzler	Open State Foundation	01/10/2019	personal interview
Tom Demeyer	WAAG Society	02/10/2019	personal interview
Sander van der Waal	WAAG Society	02/10/2019	personal interview
Jamil Jawad	VNG	03/10/2019	personal interview
Maike Popma	VNG	03/10/2019	personal interview
Martijn Reubzaet	Buitenlandse Zaken	04/10/2019	personal interview
Omer van Renterghem	Buitenlandse Zaken	22/10/2019	telephone interview
Marijn Kuiters	Gemeente Schiedam	23/10/2019	telephone interview

Henk Burgering	Provincie Zuid-Holland	29/10/2019	personal interview
Jorieke van Leeuwen	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	29/10/2019	personal interview
Marieke Schenk	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	29/10/2019	personal interview
Erna Ruijter	Universiteit Utrecht	29/10/2019	personal interview
Guido Rijnja	Ministerie van Algemene Zaken	30/10/2019	personal interview
Guido Enthoven	Instituut voor Maatschappelijke Innovatie	04/11/2019	telephone interview
Jonathan Huseman	HIVOS	04/11/2019	telephone interview
Anne de Zeeuw	Netwerk Democratie	12/11/2019	telephone interview
Peter Specker	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	13/11/2019	telephone interview
Koos Steenbergen	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	18/11/2019	telephone interview
Joep Severens	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	19/11/2019	personal interview
Eric Blaakman	Rijkswaterstaat	22/11/2019	telephone interview
Roger Vleugels	Self-employed	27/11/2019	telephone interview
Eveline Stapelvan Dijk	Provincie Noord-Holland	28/11/2019	telephone interview
Eric Stokkink	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties	12/12/2019	telephone interview

### About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M’Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researchers. Questions and comments about this report can be directed to the staff at [irm@opengovpartnership.org](mailto:irm@opengovpartnership.org).

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<sup>1</sup> IRM Procedures Manual, V.3, <https://www.opengovpartnership.org/documents/irm-procedures-manual>

## Annex I. Overview of the Netherlands performance throughout action plan development

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

<b>Multi-stakeholder Forum</b>	
<b>1a. Forum established: There is a forum to oversee the OGP process</b>	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely	Green
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure.	Yellow
1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page.	Green
<b>2a. Multi-stakeholder: The forum includes both governmental and non-government representatives</b>	Green
2b. Parity: The forum includes an even balance of governmental and non-governmental representatives	Green
<b>2c. Transparent selection: Non-governmental members of the forum are selected through a fair and transparent process</b>	Yellow
2d. High-level government representation: The forum includes high-level representatives with decision-making authority from government	Red
<b>3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum</b>	Yellow
3e. Remote participation: There are opportunities for remote participation in at least some meetings and events	Yellow
3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities, and results to wider government and civil society stakeholders	Green

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

<b>Action Plan Development</b>	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published.	Green
4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process.	Green
4c. Awareness-raising: The forum conducts outreach and awareness-raising activities with relevant stakeholders to inform them of the OGP process.	Green
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity.	Green
<b>4e. Reasoned response: The multi-stakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment.</b>	Yellow
<b>5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g links to databases, evidence of meetings, publications)</b>	Yellow

**Editorial note:** If a country “meets” the six standards in bold, the IRM will recognize the country’s process as a Starred Process.