

Independent Reporting Mechanism

Action Plan Review:
Netherlands 2020-2022

Open
Government
Partnership



Introduction

Starting in January 2021 the IRM began rolling out the new products that resulted from the IRM Refresh process.¹ The new approach builds on the lessons after more than 350 independent, evidence-based and robust assessments conducted by the IRM and the inputs from the OGP community. The IRM seeks to put forth simple, timely, fit for purpose and results-oriented products that contribute to learning and accountability in key moments of the OGP action plan cycle.

The new IRM products are:

1. **Co-creation brief** - brings in lessons from previous action plans, serves a learning purpose, and informs co-creation planning and design. This product is scheduled to roll out in late 2021, beginning with countries co-creating 2022-2024 action plans.
2. **Action Plan Review** - an independent, quick, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This product is scheduled to roll out in early 2021 beginning with 2020-2022 action plans. Action Plan Reviews are delivered 3-4 months after the action plan is submitted.
3. **Results report** - an overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning. This product is scheduled to roll out in a transition phase in early 2022, beginning with 2019-2021 Action Plans ending implementation on August 31, 2021. Results Reports are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of the Netherlands' 2020-2022 action plan. The action plan is made up of 13 commitments that the IRM has filtered and clustered into 11. This review emphasizes its analysis on the strength of the action plan to contribute to implementation and results. For the commitment-by-commitment data see Annex 1. For details regarding the methodology and indicators used by the IRM for this Action Plan Review, see section IV. Methodology and IRM Indicators.

¹ For more details regarding the IRM Refresh visit <https://www.opengovpartnership.org/process/accountability/about-the-irm/irm-refresh/>

Table of Contents

Section I: Overview of the 2020-2022 Action Plan	2
Section II: Promising Commitments in the Netherlands 2020-2022 Action Plan	5
Section III. Methodology and IRM Indicators	21
Annex I. Commitment by Commitment Data	24
Annex 2: Minimum Requirements for Acting According to OGP Process	26

Section I: Overview of the 2020-2022 Action Plan

The Netherlands' fourth action plan addresses some issues of key relevance to the domestic political context, such as freedom of information, open contracting, and open technology. Full implementation would also position the country as a global pioneer in political party financing transparency and the registration and management of public service complaints. The commitments were developed through strong processes involving cross-government and civil society consultations. Implementation will benefit from involvement of external experts for objective learning and comparison with global best practice, and from support for synergies between commitments.

The Netherlands' fourth action plan includes 13 commitments organized around seven themes that stakeholders identified during the co-creation process.¹ The action plan builds on some policy areas from the previous plan, including political party financing, digital democracy, freedom of information, open contracting, and government algorithms. It also introduces new topics such as electoral transparency, plain language in government, and publishing open data for public complaints. For the purposes of this review, the IRM has clustered three commitments on open technology, which entail open data communities, open source, and algorithms.

The fourth action plan offers modest but important steps in addressing well-publicized challenges in government transparency, particularly the implementation of the Public Access to Government Information Act (*Vervolg Open Wob - WoB*). Observers have accused the government of rejecting legitimate WoB requests, not responding in time to requests, or making false references to grounds for redaction (in particular, "policy intimacy"- the privilege of government officials to deliberate discreetly when forming policy).² These issues saw intense political debate and media attention during the child benefits scandal that led to the fall of the Dutch government in January 2021. The scandal revealed that the government knowingly withheld vital information from the public and that senior executives hold diverging views on how to share information with the public.³ In this regard, Commitment 4 continues the previous action plan's efforts to increase the number of government agencies making WoB information available in standardized open format. Commitment 7, meanwhile, addresses "policy intimacy" specifically.

AT A GLANCE

Participating since: 2011

Action plan under review: 2020-2022

IRM product: Action Plan Review

Number of commitments: 13

Overview of commitments:*

- Commitments with an open gov lens: 12
- Commitments with substantial potential for results: 2
- Promising commitments: 5

Policy areas carried over from previous action plans:

- Political party financing
- Digital democracy
- Freedom of information
- Open contracting
- Open data
- Government algorithms

Emerging policy areas:

- Electoral transparency
- Plain language in government
- Open-source
- Public service complaints

Compliance with OGP minimum requirements for Co-creation:

- Acted according to OGP process: Yes

*For commitments that are clustered, the IRM assessed potential for results at the cluster level, rather than the individual commitments.

Beyond the domestic context, the full implementation of two commitments could position the Netherlands as a pioneer in global open government efforts. Commitment 1 aims to strengthen legislation on transparency of political parties' financing. If well-enforced, the binding rules around transparency of (digital) political campaigns would reveal how foreign and domestic actors seek to influence public discourse in the Netherlands through micro-targeting and online campaigns. In addition, the lessons learned from developing an open data standard around public service complaints (Commitment 13) could help other countries seeking to improve the transparency and effectiveness of their own public service delivery.

The action plan is the result of an extensive, year-long co-creation process that involved numerous (virtual) meetings with stakeholders and experts. A variety of new government agencies and civil society stakeholders joined this action plan for the first time and launched a new network called the Open Government Alliance.⁴ This will require the Ministry of Interior and Kingdom Relations to balance input from an increased number of contributors with different and sometimes conflicting agendas, while preventing duplication of efforts in the existing multistakeholder forum. Nonetheless, the high level of collaboration on cross-cutting issues is laudable. Several commitments also include financial support for civil society involvement, which could bode well for successful implementation.

Although the final commitments are generally relevant to the open government context in the country, some do not clearly define their intended outputs. This has made it difficult for the IRM to understand and assess the potential for results of the commitments in key policy areas, such as the disclosure of government information. In addition, commitments often focus on technical solutions when there is a need for broader cultural and behavioral changes on issues that have become central to recent discussions on trust in government. Lastly, despite interest among civil society, beneficial ownership, lobbying transparency, and whistleblower protection are not included in this action plan. The government deemed these topics not feasible during the co-creation process.⁵ The IRM recommends revisiting these topics for future action plans.

The next section will highlight the promising commitments that the IRM identified in this review and provide strategic recommendations to support their successful implementation. During the implementation, the IRM recommends seeking broad consultations with stakeholders with expertise and experience in these policy areas, especially where there is overlapping work. This could include external experts on political party financing (Commitment 1), experts in organizational psychology (Commitment 7), and international experts in algorithmic transparency (Commitment 12). Also, the open data communities from Commitment 10 could be consulted when creating the consolidated platform for procurement data (Commitment 9). The IRM also recommends connecting implementation of these commitments to broader domestic and international discussions. For example, implementing stakeholders could tie Commitment 1 to ongoing European discussions around political party financing legislation, and could consult the Dutch Whistleblowers Authority when developing the open data standard for public complaints under Commitment 13.

¹ Ministry of the Interior and Kingdom, The Netherlands Open Government Action Plan 2020-2022, https://www.opengovpartnership.org/wp-content/uploads/2021/01/Netherlands_Action-Plan_2020-2022.pdf

² Government and WoB requests, <https://www.nrc.nl/nieuws/2017/02/19/altijd-gedoe-over-de-gehanteerde-laklijn-6778120-a1546741> and <https://radar.avrotros.nl/uitzendingen/gemist/item/burger-loopt-met-het-hoofd-tegen-de-muur-bij-een-beroep-op-de-wob/>

³ Tweede Kamer, Verslag Parlementaire ondervragingscommissie Kinderopvangtoeslag, December 2020, https://www.tweedekamer.nl/sites/default/files/atoms/files/20201217_eindverslag_parlementaire_ondervragingscommissie_kinderopvangtoeslag.pdf

⁴ Open Government Alliance, <https://www.open-overheid.nl/alliantie-open-overheid/>

⁵ The Netherlands National Action Plan 2018-2020, End-of-Term Self-Assessment Report, p 8, https://www.opengovpartnership.org/wp-content/uploads/2020/12/Netherlands_End-of-Term_Self-Assessment_2018-2020_EN.pdf

Section II: Promising Commitments in the Netherlands 2020-2022 Action Plan

The following review looks at the five Promising Commitments that the IRM identified as having the potential to realize the most promising results. The IRM will use this selection of Promising Commitments and their potential results to inform the assessment of Action Plan progress and impact at the end of the implementation period.

The IRM selected the Promising Commitments based on their importance to the overall government transparency and accountability context in the Netherlands, their potential results in the long run, and the proposed work being fit for purpose. The IRM also considered the direct involvement of relevant stakeholders in the planned work. This review provides an analysis of challenges, opportunities, and recommendations to contribute to the implementation of these commitments and the lessons learned.

The Netherlands' fourth action plan generally addresses important areas for improvement. However, some commitments remain abstract and lack a more concrete vision for change. Specific milestones or intermediate steps are not always identified. In addition, the potential for results are often difficult to determine because the usage of planned outputs, such as guidelines and documents, are not specified. It is not always clear how these outputs will help define new practices or identify future work. Without illustrating the broader usage for such outputs, their added value could be limited. Future actions could be more impactful if they more clearly articulate the steps towards implementation and the added value from the planned outputs.

Commitment 1 could increase the transparency of political parties' financing and reveal who is seeking to influence political discussions in the Netherlands, if the proposed binding rules for transparency of digital political campaigns are enacted and enforced. Commitment 9 could lead to greater public scrutiny of government contracts and government spending if the proposed contracts platform is delivered. Commitment 13 could improve accountability and action on citizen complaints through the proposed publication of complaints data in open formats. Finally, the cluster on technology (Commitments 10, 11, and 12) could strengthen the openness of and participation in open data, open source, and government algorithms.

Several commitments center around the Public Access to Government Information Act (WoB). Commitment 4 continues the previous action plan's efforts to increase the number of public authorities making WoB information available in standardized open formats. Commitment 5 will proactively disclose certain categories of government information, in compliance with the WoB's forthcoming successor, the Open Government Law (*Wet open overheid- Woo*). While these are positive initiatives, the IRM has focused on Commitment 7 in this Action Plan Review. The guidelines and discussions from this commitment could be useful starting points for addressing a critical issue in the debate on freedom of information in the Netherlands: "policy intimacy".

The commitments not selected for further analysis in this Action Plan Review are positive efforts but are ultimately less critical to the open government context in the Netherlands. Commitment 2 could lead to greater transparency of how elections results are tabulated at the municipal level. The IRM has not reviewed this commitment in further detail because electoral results in

the Netherlands already enjoy high levels of trust and transparency.⁶ Commitment 6 on plain language could improve government communication with citizens, though this issue is less pertinent compared to those addressed in the Promising Commitments. Lastly, Commitment 3 will largely continue the previous action plan's efforts to strengthen local democracy by developing and promoting digital participation tools.

Table 1. Promising commitments

Promising Commitments
<p>1. Transparency in the Political Parties Act: The proposed legislation could improve regulations and transparency around political party financing in a number of ways. Importantly, the legislation could provide binding rules around the transparency of digital campaigns and micro-targeting, which is currently unregulated and highly opaque.</p>
<p>7. The Future of Policy Intimacy: This commitment is a preliminary step towards resolving tensions around the issue of "policy intimacy", where government information that includes the personal opinions of public officials on policies does not have to be disclosed.</p>
<p>9. Contract Register in the Netherlands: The new platform from this commitment could lead to greater public scrutiny of contract information by a larger group of experts and stakeholders and support the Netherlands' post-COVID-19 economic recovery.</p>
<p>10, 11, 12. Open Technology: The commitments in this cluster could improve how the Netherlands uses critical technologies and data. The human rights impact assessment under Commitment 12 could help reduce possible biases and ethical issues in the algorithms procured by government agencies.</p>
<p>13. Open data standard for public service complaints: The publication of complaints data in open format could provide the government, civil society, and citizens with better insights into the scale, scope, and outcome of complaints. Through standardized data collection, trends in poor public service delivery could be recognized faster and remedied better. In addition, this commitment could help other countries strengthen their public service delivery methods.</p>

Commitment #1: Transparency in the Political Parties Act (Ministry of the Interior and Kingdom Relations)

For a complete description of the commitment, see Commitment 1 on page 7 of the Netherlands 2020 – 2022 action plan [here](#).

Context and objectives:

Regulations around political party financing in the Netherlands have room for improvement. The Group of States against Corruption (GRECO)⁷ and the Office for Democratic Institutions and Human Rights (ODIHR) have found that recommendations on campaign finance oversight remain unaddressed.⁸ Since 2013, donations to political parties above EUR 4,500 need to be disclosed and are published via the Ministry of Interior and Kingdom Relations. However, anonymous donations up to EUR 1,000 and foreign donations are currently allowed, making it relatively easy to circumvent the regulation by splitting donations up into smaller tranches, or channeling them via third parties, such as associations. This loophole, and the topic of party financing generally, surfaced during the parliamentary elections in 2021,⁹ when several political parties disclosed that they received significant contributions for their electoral campaigns.¹⁰

The Ministry of Interior and Kingdom Relations will develop new political party legislation in this commitment. As a first step towards a new Political Parties Act (*Wet op de politieke partijen - Wpp*), the government will amend the Political Finance Act (*Wet financiering politieke partijen - Wfpp*).¹¹ This bill will enhance the regulations around political party financing and increase transparency in several ways. It will prohibit donations from outside the EU/EEA to Dutch political parties and their subsidiary institutions (except for Dutch voters residing in these jurisdictions). Political parties will be required to publish all donations, including the smallest ones, that they receive from other EU member states. The draft law will also require the natural persons behind legal entities that donate to a political party to be made public. The threshold of EUR 4,500 per donor per year will continue to apply to the disclosure of donations from the Netherlands.¹² This commitment builds on the previous OGP action plan, where the Ministry of the Interior and Kingdom Relations developed a tool to promote the transparency of local political parties' financing.¹³

In addition, the State Commission on the Parliamentary System has recently recommended amending the current Political Finance Act to oblige political parties to be more open about the digital instruments they use. In particular, the Commission considers micro-targeting a possible threat to democracy and the rule of law.¹⁴ In 2018, researchers from the Delft University of Technology warned that customized, targeted political advertisements can erode public trust in democracy by limiting public contestation of ideas and feeding voters with potentially inaccurate information. This facilitation of disinformation and voter manipulation from micro-targeting can potentially be exploited by foreign and malign operators to influence domestic political discourses.¹⁵

Thus, beyond improving the framework on party financing, this commitment also aims to develop binding rules around campaigning in the digital space. In light of this broader legislative ambition, the Minister of Interior and Kingdom Relations and the International Institute for Democracy and Electoral Assistance initiated a voluntary code of conduct on transparency of online political advertisements ahead of elections in March 2021.¹⁶ The code of conduct was signed by the majority of parties in Parliament as well as Facebook, Google, YouTube, Snapchat and TikTok.¹⁷ However, there are currently no legal regulations around the transparency of digital campaigning in the Netherlands and political parties are generally allowed to spend their resources however they like.¹⁸ This in turn leads to opaqueness around the origins of targeted political advertisements and the groups that they are seeking to influence.

Potential for results: Substantial

If passed in the House of Representatives, the new Political Parties Act could enhance regulations around the transparency of income for political parties in the Netherlands. The amended Political Finance Act will require political parties to disclose the identities of donors that previously were able to remain anonymous.¹⁹ This will include the identities of natural persons behind legal entities that donate to political parties, who previously could remain anonymous. Journalists, civil society, and interested citizens will have access to more complete information on the sizes of financial donations to political parties in the Netherlands as well as the identities of the donors. The insights gained from this information could better inform the electorate about who is donating to political parties and in turn improve public trust in democratic principles. In addition, the prohibitions on foreign donations and the mandatory disclosure of donations from EU countries could strengthen the integrity of Dutch elections (and the political system more broadly) by reducing foreign influence.

Given that virtual spaces are increasingly shaping the global political arena, the ambition to adopt binding regulations around digital campaigning and micro-targeting in the new Political Parties Act is a highly commendable, novel, and timely proposal. The binding regulations from this commitment could significantly limit the ability of actors (both foreign and domestic) to secretly influence public discourse in the Netherlands through targeted political advertisements and online campaigns.²⁰ While greater transparency alone is unlikely to completely address the phenomenon around disinformation, the regulations from this commitment could shed new light on who is behind the spread of disinformation, how such campaigns operate, and which groups are possibly being influenced. Access to this information could in turn result in greater resilience within the Dutch political system and public against cases of disinformation in political micro-targeting.

It should be noted, however, that the specific regulations and possible changes in transparency around micro-targeting and digital campaigning are not explicitly described in the commitment. Therefore, the actual changes from this commitment will depend on what binding regulations are ultimately adopted. Nonetheless, even if no binding rules are adopted, the discussions around micro-targeting will be valuable for decision-makers, both domestically and globally, in diagnosing specific challenges and informing future policymaking on the role of digitalization and its impact on democracy. These insights can also help sharpen European legislation that is relevant and currently under way, such as the EU's Digital Services Act.

Opportunities, challenges, and recommendations during implementation

This commitment's success will depend on majorities in both parliament and senate, as well as the level of ambition of the proposal that the government submits to parliament. In the past, the government has considered it difficult to make OGP work more politically salient, owing to policy constraints (such as the *Oekaze kok*²¹). Nonetheless, the IRM recommends stakeholders continue looking for opportunities to use political momentum and, where possible and appropriate, **connect the action plan to ongoing discussions in parliament and the senate**. This peer pressure among parties could move the needle and create new norms around online campaigning. It is likely that this will prove challenging, as the theme of micro-targeting can be divisive. Although most (but not all) parties signed the voluntary code of conduct on transparency of online political advertisements during the 2021 electoral campaign, the text on micro-targeting left considerable room for interpretation.²² The IRM thus recommends **actively involving external organizations and experts in this process, including civil society and researchers**, in order to prevent the commitment from becoming isolated discussions among political parties.

The newly elected parliament comprises more than 17 parties and regulation of political parties is increasingly impacting representation and trust in government. Broad societal support for the need to regulate political parties is therefore important. Igniting broader debate and inviting external stakeholders, such as the Council of Europe, International IDEA, and others to take part in these deliberations can help shape consensus and streamline the process of adopting possible binding rules. To that end, the IRM recommends that the Ministry of Interior and Kingdom Relations consider **organizing a series of events, such as roundtables, to mainstream this topic into other relevant discussions like state support to political parties** (including but not limited to subsidies, airtime on public broadcasting channels for

political parties, etc.). Earlier IRM recommendations on supporting decentralized parties and party expenditures also still hold.²³

Finally, the IRM recommends **seeking stronger links to European discussions and legislation around this topic**, as several other countries are undertaking such efforts. This can help the Netherlands to take on this issue with resolution and determination and ensure the country positions itself as a pioneer in cutting-edge open government policy.

Commitment #7: The Future of 'Policy Intimacy' (Institute for Social Innovation (IMI), Ministry of the Interior and Kingdom Relations, Ministry of General Affairs, Open State Foundation).

For a complete description of the commitment, see Commitment 7 on pages 19-20 of the Netherlands 2020 – 2022 action plan [here](#).

Context and objectives:

Currently, the Public Access to Government Information Act (*Wet openbaarheid bestuur - Wob*) is the legal instrument for citizens and journalists to formally request information from both the national and local governments. This legislation will soon be replaced with the Open Government Act (*Wet open overheid - Woo*). Under article 11 of the Wob (and article 5.2 of the future Woo), government information that includes personal opinions on policy (for example from civil servants or government officials), contained in documents drawn up for the purpose of internal consultation, does not have to be disclosed. In practice, this so-called personal policy view can limit the transparency of how the government operates by allowing civil servants and government to refuse or heavily redact Wob requests. There has been increased debate and media attention around this issue in recent years, and government officials frequently state that policy deliberations must enjoy a certain sense of confidentiality, or 'intimacy'. At the same time, a report by the parliamentary inquiry committee looking into the recent childcare allowance scandal stated that "in practice the concept of 'personal policy views' is frequently stretched too far".²⁴

Against this backdrop, the Institute for Social Innovation (IMI), together with relevant government representatives and other civil society organizations, have committed to explore how to better balance the need for the government to be transparent and open while safeguarding the 'intimacy' of the policy-making process. Specifically, the commitment will involve a series of formal consultations between relevant stakeholders (including civil servants, freedom of information experts, and civil society), which will result in a document with policy recommendations to help guide this discussion forward.

Potential for results: Modest

This commitment addresses an issue of critical importance to open government in the Netherlands, namely the ability of government officials to refuse (or heavily redact) Wob requests on the grounds that they contain "personal views" of civil servants or government officials. However, it is designed to be a preliminary, positive step towards resolving the tensions around "policy intimacy" and the results will likely be modest. Ultimately, its success will depend on the level of collaboration with experts during the planned discussions as well as the content of the resulting policy document. The guidelines or recommendations from this policy document could serve as a helpful starting point for future efforts in this area. It is not

expected to produce any substantial results in the short term, as it does not aim to change legal framework and practices that are at the center of the debate on “policy intimacy”. The grounds for exclusion have been legitimized again in the forthcoming Woo and political debates are resurfacing on how to deal with “policy intimacy”, so it would be unrealistic to expect legislative change during the action plan period.

The commitment does identify a possible longer-term path to change, by seeking to link the outputs to the 2019-2025 multiannual plan to improve the management of central government information by the National Programme for Sustainable Digital Information Management (RDDI). In addition, relevant stakeholders such as the RDDI are also formally involved in Commitment 5 in this action plan, which deals with proactive disclosure of government-held information. As such, the work under this commitment could bring important contributions to future discussions, and the lessons learned and insights that will be collected in the document can inform other processes and discussions that will shape the future of “policy intimacy”.²⁵

Opportunities, challenges, and recommendations during implementation

Recent political developments have provided key momentum for the need to talk about the overall culture of openness and transparency in Dutch government. Questioning the concept of “policy intimacy” is now much more accepted, and discussions under this commitment can tap into that energy and understanding. A challenge will be doing so with impact and longevity. In that regard, it is essential to involve a broad coalition of stakeholders and map the more persistent challenges to a culture of open government.

Keeping the work under this commitment informal may be helpful for getting started. But as time progresses, the IRM recommends **formalizing the network that this commitment will task to formulate some answers** to provide its important work with much-needed prioritization. The importance of the inclusion of relevant government agencies, such as the RDDI, cannot be overstated. Occasionally, involving prominent figures in the debate/work, such as external Wob experts or the former ombudsperson, could also provide this work with external thought leadership and help diffuse new norms around transparency inside government circles. In that regard, the IRM also recommends **reaching out to experts in organizational psychology**, as changing an organization’s culture, let alone a culture that is believed to be deeply enshrined in an entire administration and its institutions, is difficult and would benefit from the insights of these disciplines.

Commitment #9: Contract Register in the Netherlands (Ministry of the Interior and Kingdom Relations & Open State Foundation)

For a complete description of the commitment, see Commitment 9 on pages 22-24 of the Netherlands 2020 – 2022 action plan [here](#).

Context and objectives:

With an estimated total purchase volume of EUR 73.3 bn annually, government procurement makes up a significant part of the Dutch GDP.²⁶ The amended Public Procurement Act from 2016 applies to all procedures below and above the threshold, recognizing the general principles of equal treatment, non-discrimination, transparency, and Dutch civil law (including pre-contractual good faith). The central government procures via a so-called system of category management. For each category, a manager is appointed with expertise in that category. Organizations then purchase collectively under the leadership of the category manager.

Category management is not only about the actual procurement, but also about realizing government ambitions around sustainability and social responsibility.

Although there is considerable disclosure of procurement information, it is often scattered and incomplete. Since 2015, aggregate numbers of spending per department, per purchasing category, and per supplier are disclosed. Since March 2017, a non-financial overview of State contracts concluded by category managers is made public, containing key data of each government contract.²⁷ In addition, there is the so-called procurement calendar²⁸ and the online tendering mechanism *tendered*. The need to switch between these different platforms to get an overview of upcoming procurements has been flagged by business groups as cumbersome and undesirable,²⁹ and stakeholders agree that a new, single portal is needed.³⁰ To add to the confusion, since May 2018 the category plans are made public on a ministry website.³¹ In these plans, the category manager explains the government's procurement goals, and concrete plans for realizing those goals. Companies can use these plans to prepare for tenders, while citizens or interest groups can use them to understand the intentions towards, for example, sustainable procurement.

Over the years, cases of poor contract performance by suppliers in relation to state contracts have been reported, as well as bid-rigging at the local level (involving a public transport concession). Government spending on large IT projects resulted in a parliament inquiry, the so-called Commission Elias. Among other things, this commission advised more dialogue between market players and government procurement agencies to enhance efficiency and overall performance.³² As a result, a specialized team now procures IT projects and monitors contract implementation. In addition, the government has expressed a strong ambition to reflect environmental, social, and corporate governance indicators (ESG) in the public procurement process and launched the 'procuring with impact agenda'.³³

Against this backdrop, the Ministry of Interior and Kingdom Relations (via the Chief Procurement Officer), together with the Open State Foundation and others, seeks to streamline scattered flows of information around category-managed government procurement (estimated at EUR 5 bn annually) into a new and consolidated platform. The primary aim of the new platform is to cultivate a structured and fruitful dialogue among citizens, companies, interest groups, and the central government, and to increase the (re)use of publicly available information on procurement. Contrary to the commitment's title in the action plan, the Ministry of Interior and Kingdom Relations does not currently plan to roll out a new contract register. The commitment has a detailed project plan that identifies shortcomings, sets clear deliverables and milestones, and reflects on possible risks and how to mitigate them.³⁴ As such, this commitment is well-planned and the outcome, a blueprint for a new platform, well designed.

Potential for results: Modest

Stronger transparency on government procurement can strengthen overall public sector integrity, allowing public oversight to reduce anomalies, improve competition on government contracts, and support efficient government spending. The commitment does not seek to disclose all data needed for such enhanced oversight (in particular individual contracts and their value), and thus its potential for results is modest. However, it could lead to greater scrutiny of contract information by a larger group of experts and stakeholders, generating new insights and data on government spending which will be made publicly available. In addition, and recognizing that effective public procurement is good for business, this commitment could

support the Netherlands' post-COVID-19 economic recovery as small and medium-sized enterprises (SMEs) and their interest groups would be able to use the new platform to better inform themselves on the opportunities and challenges for them to take part in procurement processes. As such, this commitment could help implement recommendations by other global fora such as the Group of Twenty (G20), who urge their members to ensure that procurement processes are open and fair as this encourages a more equitable business landscape by allowing SMEs to compete more effectively.³⁵

Similarly, other interest groups, such as environmental or human rights organizations, could use the data from the platform to strengthen their advocacy, in particular by this commitment's attention to disclosing and deliberating on the so-called category plans. The Ministry of Interior and Kingdom Relations will undertake this commitment with leading CSOs, such as the Open Contracting Partnership and the Open State Foundation, who are well aware of challenges and best practices in this area. In addition, according to the commitment's work plan, the Plain Language Brigade (*Direct Duidelijk Brigade*) from Commitment 6 in this action plan will ensure that the purchasing plans for each category are easily understandable for external stakeholders and laypersons.

Finally, the work is well planned and supported through a sizable grant from the European Commission so the platform, especially if guided by relevant data standards, can realistically be expected to be launched and generate a lasting impact. This assessment is further inspired by earlier OGP analysis, that found how engaging citizens and users to utilize contracting data and closing citizen feedback loops are key for improving data usage.³⁶

Opportunities, challenges, and recommendations during implementation

Drawing on the previous action plan, the IRM recommends **integrating the lessons learned from work on the Open Contracting Data Standard (OCDS) and elaborate how such standardization can complement the new platform**. It could also support the thinking around topics that the commitment does not currently address, such as if all government contracts will eventually be included and in what format that could best take place. In that context, another opportunity is to use open contracting during the implementation of this commitment for the area of beneficial ownership transparency. In a number of jurisdictions, contract registers require bidders on government contracts to also disclose their ultimate beneficial owner. This combination of information has proved helpful in preventing collusive bidding and enhancing overall contract performance, including in the procurement of COVID-19 related purchases.³⁷ Furthermore, **the Ministry of the Interior and Kingdom Relations could pool this commitment's resources with those of Commitment 10 on open data communities**, as procurement data is also partly provided via the Netherlands' open data portal (data.overheid.nl). Finally, the IRM recommends that future activities **involve training people on how to use the data on the new register, specifically for groups who are perhaps less adapted to using such databases in their daily work**.

In terms of challenges, Dutch law does not currently require the government to maintain a contract register. However, as this work is progressing, and open contracting standards are becoming the norm, it is possible that a contract register will be necessary. A number of EU member states have already established contract registers (such as the Czech Republic, Estonia, and Slovakia, among others) that legally require certain formats to be used (machine readable), and have provisions for the completeness of such data, etc. The IRM recommends using this

commitment to prepare the groundwork for such efforts in the Netherlands to inform a legal basis for certain standards and sources of procurement information to consider. The IRM also recommends that stakeholders **build broad partnerships, including with business interest groups who have been asking for more consolidated data**. In case discussions to phase out or replace *tendered* become more prevalent, the lessons learned from this work could be vital to prevent possible duplication of efforts.

Commitment cluster #10, 11, and 12: Open Technology (Ministry of the Interior and Kingdom Relations and/or its subsidiaries such as KOOP (Netherlands publication office), ICTU, Foundation for Public Code, Open State Foundation, Code for NL, EMMA Communicatie, Ministry of Justice and Safety, Chamber of Audit)

For a complete description of the commitments included in this cluster, see commitments 10, 11, and 12 on pages 24-30 of the Netherlands 2020 – 2022 action plan [here](#).

Context and objectives:

The Dutch government owns vast amounts of data, which can be accessed publicly via the national open data portal data.overheid.nl. Following the completion of a pilot in 2020, Commitment 10 seeks to scale up this work by establishing five new open data communities in addition to the four currently active communities. The open data communities consist of data owners, re-users, and experts in specific domains, such as education or mobility.³⁸ The communities offer specific data, reference data, applications, and an opportunity to ask experts directly about the data. This commitment also involves developing indicators that can help assess the actual impact of using and re-using government datasets. These indicators will be made visible on the national data portal and are expected to sustain a structural supply and demand for open data (with the help of these data communities). The commitment also calls for developing impact assessment on open data use.

In addition, digital transformations have altered the functioning of public service delivery in the Netherlands. Engagement with the IT community, including software developers, is essential as this enhances quality and helps foster a deeper understanding of these tools between users and creators. As the government frequently commissions software, doing so in an open-source format, meaning software is free and open to modification and re-distribution, promotes essential collaboration of public organizations and the sharing of digital tools for the public good. Aside from collaborative development, open-source software can also strengthen transparency, avoid the duplication of software tools for government agencies, and prevent so-called vendor 'lock in'. Furthermore, and in response to inquiries from MPs, the government plans to make the source code available for software that is developed by public means so that it can be publicly reviewed, improved, and re-used.³⁹ Government organizations, however, have limited experience releasing source codes and it is not always clear what the costs of releasing the source code are or if this adds value in all cases. Through Commitment 11, the Ministry of Interior and Kingdom Relations, together with a broad range of technology-focused CSOs, will spread the use of working open source within government, by stimulating debate, developing a toolbox, sharing best practices, and linking this theme to policy making at the national level.

Governments also increasingly rely on new technologies such as artificial intelligence (AI), machine learning, and algorithms to analyze data and inform policy making. The use of

algorithms in government policies stirred debate in Dutch society; local watchdogs criticized the use of an algorithm called SyRI by the government to fight fraud due to its lack of transparency, apparent bias, and disregard for privacy. SyRI's use was ultimately banned in national court who ruled that the system violated the European Convention on Human Rights.⁴⁰ The government has commissioned various studies on the topic⁴¹ and agrees that algorithms need to be transparent for reasons of oversight and legal supervision.⁴² The extent to which algorithms are used, however, still appears to be largely unknown. In addition, the Court of Audit has reported that little attention is currently paid to ethical aspects or potential biases in the government's algorithms.⁴³ It noted that citizens should be able to understand the use and operation of algorithms and know where to turn to with questions or objections. The Court of Audit recommends that the government secure personal data in the management of its algorithms and ensure an unambiguous common language that defines quality requirements for algorithms.

Against this backdrop, the fourth action plan continues to work on the theme of algorithms under Commitment 12. The Netherlands' previous action plan included a commitment on developing preliminary frameworks and guidelines around algorithmic transparency, but it saw only limited completion.⁴⁴ This new commitment, on the other hand, explicitly focuses on the issue of ethics and algorithms. It aims to develop a human-rights based impact assessment tool for potential algorithms and use this to set standards in engaging with third parties (such as external software suppliers). It also plans to improve conditions for the government purchasing algorithms from companies and explore how to arrive at joint definitions in AI and algorithms. However, the commitment does not explicitly state if the human rights impact assessments for government algorithms will be made available to the public.

Potential for results: Modest

Taken together, the commitments in this cluster could improve the openness, transparency, and participation in how the Netherlands uses critical technologies and data. All three commitments seek to work with a broad variety of stakeholders outside government and facilitate external (including citizen) feedback to improve government owned or hosted data and software tools.

Open government data can only live up to its potential if, aside from being readily and publicly available in appropriate formats, it is used by an ever-growing group of diverse and experienced users. Through the open data communities under Commitment 10, government agencies will learn about new, innovative ways for the re-use of government data, while users will learn to better navigate the national portal that includes tens of thousands of datasets. The particular attention devoted to monitoring and evaluating success, by seeking to develop portal-wide indicators to measure impact of data, could yield significant results. Demonstrated impact on social issues by using open data can subsequently increase the demand for more data. Drawing on that impact assessment, this commitment can also help build broader social and political support for the disclosure of government data in an open data format.

Commitment 11 has promising potential to strengthen the government's ability to work in open source, thanks to direct linkages to existing policy-making efforts at the central government level, coupled with strong engagement from civil society and the open-source community. Although the exact results are difficult to forecast, making open-source coding more transparent could reveal new insights into how government operates regarding digital public services.

Finally, the renewed focus on government algorithms under Commitment 12 follows earlier IRM recommendations to draw on existing bodies of domestic work in this area at the central government level.⁴⁵ Although this commitment does not call for opening up additional government algorithms, the human rights impact assessment could help government agencies to safeguard against potential biases in the underlining data of the algorithms they procure. This in turn could help reduce the possible discrimination of certain segments of the population when the government utilizes algorithms in developing policies. This commitment could also enrich other efforts at the central government level, such as the 'procurement with impact' strategy.⁴⁶

It is important to note, however, that the commitment does not specify if the use of the human rights impact assessments will become mandatory for all government agencies when they procure algorithms. It also does not specify if the findings of these impact assessments will be made publicly available during the algorithm procurement process. Therefore, the results of this commitment will largely depend on the uptake of the human rights assessments among government agencies and the level of detail included. The commitment's results will also depend on the discussions held with civil society on the impact of algorithms on society and the extent to which these discussions lead to making more algorithms publicly available for scrutiny.

Opportunities, challenges, and recommendations during implementation

Open technology is a broad topic, yet several thematic overlaps could be explored inside this cluster and beyond. For example, the commitments on open data communities and open source could strengthen the proactive disclosure of government information under Commitment 5 of this action plan. Information categories and formats are central to that work. Therefore, the IRM **recommends sharing relevant insights and ideas from Commitments 10 and 11 with the stakeholders working on the proactive disclosure of government information (Commitment 5)**. In addition, Commitment 3 on digital democracy aims to pilot an open source digital tool and AI-powered consensus platforms (such as pol.is and openstad.org), and lessons learned could be shared with the experts and organizations involved under Commitment 11.

Regarding Commitment 12, the IRM recommends **making the human rights impact assessment for government procurement of algorithms publicly available**. This way, the impact assessments could provide citizens and civil society with an important mechanism to monitor how government agencies are taking human rights into account when procuring their algorithms. As a result, citizens and civil society will be able to better raise potential ethical issues in the government's use of algorithms in its policies. The IRM also recommends going a step further by **making use of the human rights impact assessments mandatory for all public agencies when they procure algorithms**.

In terms of open algorithms more broadly, the Netherlands has joined a group of other countries working on this topic in the context of OGP.⁴⁷ The IRM recommends **engaging international experts from other countries to share their experiences and lessons learned on algorithmic transparency**. EtaLab from France, for example, has experience in disclosing to citizens how and when algorithms were used and could add significant value to the work in the Netherlands. In addition, the IRM recommends **assessing where disclosure is needed the most and consider listing the high-value datasets where algorithms are**

currently used. For example, the City of Amsterdam, that was involved in the co-creation process, has developed an algorithm register where citizens can learn more about the use of algorithms in the city administration.⁴⁸ Such examples of public outreach and awareness raising are considered important to help increase knowledge and skills for citizens to develop 'technological citizenship'.⁴⁹

Finally, in anticipation of Commitment 13 of this action plan (discussed below), the IRM recommends that stakeholders **involve the National Ombudsperson, when possible, in their work on algorithmic transparency**, as this represent one of the key channels for people to raise concerns. In addition, the National Ombudsperson has declared it seeks to assure that algorithms used by the government are sound and citizen driven.⁵⁰

Commitment #13: Open data for public complaints (Open State Foundation, National Ombudsperson, three local Ombuds institutes, Pathfinders for Justice, NYU-CIC)

For a complete description of the commitment, see Commitment 13 on pages 31 -35 of the Netherlands 2020 – 2022 action plan [here](#).

Context and objectives:

The digitalization and adoption of electronic tools in the Dutch justice system currently lags behind other governments in a number of areas, and consecutive Dutch governments have expressed an ambition to improve the digitization of legal procedures and court-related workflows. The management and registration of official complaints, though not always a strictly legal matter, is no exception. In 2019, the National Ombudsperson received a total of 30,775 requests for assistance to mediate and help resolve citizen grievances (this number could be higher as not all requests via telephone have been registered).⁵¹ In addition, in its annual report, National Ombudsperson observed that social media is playing an increasing role for people to communicate and file complaints, underscoring the importance of using digital tools in their work. For complaints to be resolved effectively, easily accessible complaints mechanisms are essential. Open data and open access can facilitate this process and play an instrumental role in a smooth management and follow-up to complaints. The same is true for Ombud agencies at the local level, who also handle significant numbers of complaints but have diverse ways of registering and reporting on the complaints they receive.

Through this commitment, the Open State Foundation aims to create a new "Complaints Open Data Standard" whereby public complaints will be published in open data format on the PLOOI platform (a central government-owned platform for open government information). Through the publication of complaints as open data, this work can help government better diagnose and resolve citizen grievances and make valuable contributions to the broader need for digitalization in the Dutch public service delivery system. The Complaints Open Data Standard will represent a novelty in the Dutch context, as neither the National Ombudsperson nor local Ombuds currently publish data on public complaints they receive and handle in a standardized or open format. The new Complaints Open Data Standard will be piloted in the National Ombudsperson, three local governments (The Hague, Rotterdam, and Amsterdam), as well as one or two public entities that deal with first line complaints. According to the action plan, the goal is for all complaints about public services in the Netherlands to be published as open data based on a

common standard by 2025. The commitment also entails sharing experiences from this work at various international fora in 2021 and 2022.⁵²

Potential for results: Substantial

Against a background where the mismanagement of citizen grievances around government handling of complaints led to the fall of the Dutch government in early 2021, this commitment is a highly relevant endeavor. The publication of citizen complaints data in open format could provide government, civil society, and citizens with better insights into the overall scale, scope, and outcome of complaints. Through standardized data collection, trends in poor public service delivery could be recognized faster and remedied better. In addition, public entities in the Netherlands are expected to soon be confronted with the legal obligation of publishing data about complaints. And as it appears there is currently no such standard available, securing the buy-in from central authorities early on seems realistic while necessary IT infrastructure and expertise are expected to be made available and help bring about substantial, longer-term results.

Furthermore, in seeking to host the standard on a central and government-owned platform, this could also be integrated in digital platforms the government needs to set up in anticipation of the Woo on proactive disclosure of government data. This would allow journalists and interested citizens to better inform themselves about frequent complaints, both nationally and regionally, and use this information to set political agendas.

In addition, the collaboration between key institutions and stakeholders such as the Ombudsperson, the Association of Dutch Municipalities, and key CSOs such as Pathfinders for Justice, should allow for a constructive dialogue that can help bring about a highly relevant new norm/standard around the registration and management of complaints. Finally, the commitment calls for stakeholders to share their experiences in developing an open data standard for complaints with international stakeholders at a variety of global open government events. Given the novelty of this initiative at the global level, the results of this commitment could help other interested countries strengthen their own complaints handling policies and public service delivery systems.

Opportunities, challenges, and recommendations during implementation

Upcoming legislation creates an enabling environment for this commitment and should allow stakeholders to work on this topic across different levels of government. Going forward, the IRM recommends reflecting on existing reports on good practices in complaints management, such as those by the International Ombudsman Institute⁵³ and Transparency International.⁵⁴ In particular, the IRM recommends **including, as part of the new publishing standard, data on the corrective actions taken by relevant agencies to resolve complaints.** Data on the follow-up communications between agencies and the complainants (both during the complaint handling process and when the complaint has been closed) could be part of the new publishing standard. These insights could help the government and citizens better understand not only which services receive the most complaints, but also which service providers are the most effective at resolving the complaints they receive.

This work may also yield relevant insights and could provide the government with the opportunity to present the Netherlands as a pioneer in public service complaints handling, a dynamic that can help to secure strong government buy-in. At the same time, this is also where

challenges lie, as working in collaboration with government agencies on complaints (including disclosing statistics on government performance) without casting aspersions is not easy. Different interpretations may occur over what constitutes a complaint and what does not, which may impact discussions on who should own and maintain a central complaints database. If the government will be the owner, considerations on how impartiality can be assured need to be discussed early on. The strong engagement of the National Ombudsperson is therefore essential, given their central role in handling complaints, and the IRM recommends **tasking the National Ombudsperson to review and validate the central publication.**

Furthermore, the IRM recommends that stakeholders **consider finetuning the sequence of the planned work under this commitment.** It could, for example, be vital to first work with the ombudsperson institutes to standardize and classify their 'inventory' of complaints before starting to work on the definition of the complaints open data standard. That way, they can ensure that the new open data standard is fit for purpose and adapt to the realities of relevant institutions (i.e., cluster complaints under more abstract categories that could impede the standard's usability and legitimacy).

Finally, there is some thematic overlap between the role of the ombudsperson institute and the managing and protection of whistleblowers. The National Ombudsperson also handles the complaints about the Dutch Whistleblowers Authority. The IRM recommends **soliciting the views and experiences of this agency in developing the standard,** given that the open data standard could also be relevant for case-management within the Dutch Whistleblowers Authority.

⁶ See for example, <https://www.cbs.nl/nl-nl/cijfers/detail/71719ned?q=politiek%20vertrouwen>, <https://nos.nl/artikel/2373291-meeste-mensen-hebben-vertrouwen-in-de-verkiezingen-enig-wantrouwen-is-van-alle-tijden.html>, and <https://myprivacy.dpgmedia.nl/consent/?siteKey=V9f6VUvIHxq9wKIN&callbackUrl=https%3a%2f%2fwww.ad.nl%2fprivacy-gate%2faccept-tcf2%3fredirectUri%3d%252fpolitiek%252fnederlanders-hebben-bovengemiddeld-veel-vertrouwen-in-de-politiek%257eaf0c6fbf%252f>

⁷ Council of Europe, Evaluation Report on the Netherlands on 'Transparency of Party Funding' <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c7965>

⁸ OSCE, The Netherlands, Parliamentary Elections, <https://www.osce.org/files/f/documents/4/0/478501.pdf>

⁹ NOS, Party financing during parliamentary elections, <https://nos.nl/artikel/2371252-tonnen-aan-giften-voor-partijen-donateur-wordt-zo-beetje-werkgever-van-politici.html>

¹⁰ Rijksoverheid, Parties disclose contributions, <https://www.rijksoverheid.nl/documenten/publicaties/2021/03/10/overzicht-giften-en-schulden-politieke-partijen-tweede-kamerverkiezingen-2021-van-2019-tot-en-met-24-februari-2021>

¹¹ Overheid.nl, The draft Wfpp law, <https://zoek.officielebekendmakingen.nl/kst-35657-3.html>

¹² *Ibid.*

¹³ The Netherlands National Action Plan 2018-2020, End-of-Term Self-Assessment Report, p 15, https://www.opengovpartnership.org/wp-content/uploads/2020/12/Netherlands_End-of-Term_Self-Assessment_2018-2020_EN.pdf

¹⁴ The commission writes that "If public debate and opinion making are influenced in an obscure and non-transparent manner by means of marketing strategies which make use of large databases which are increasingly able to direct a message at a specific target group (microtargeting), then fundamental principles of democracy and the rule of law -particularly the autonomy of citizens to make their own choices in elections- come under pressure." Staatscommissie Parlementair Stelsel. 2018. Lage drempels, Hoge Dijken (p231-244). Full English translation available [here](https://www.staatscommissie.nl/onderzoek/onderzoekrapport-lage-drempels-hoge-dijken) (p171-176).

¹⁵ Micro-Targeting and ICT media in the Dutch Parliamentary system, 2018, <https://www.delftdesignforvalues.nl/wp-content/uploads/2018/10/Micro-Targeting-and-ICT-media-in-Dutch-Parliamentary-System-public.pdf>

¹⁶ Rijksoverheid, <https://www.rijksoverheid.nl/documenten/kamerstukken/2021/02/09/kamerbrief-voortgang-maatregelen-tegen-desinformatie-richting-tweede-kamerverkiezing>

¹⁷ The code of conduct, <https://www.nieuwsbzk.nl/1885610.aspx?t=Minister-Ollongren-bevordert-transparantie-politieke-advertenties-met-gedragscode>

¹⁸ The Use of Voter Data in The Netherlands, p 6, https://cdn.ttc.io/s/ourdataourselves.tacticaltech.org/DigitalLiteracyandTacticsinDutchPolitics_FullReport.pdf

- ¹⁹ Overheid.nl, The draft Wfpp law, <https://zoek.officielebekendmakingen.nl/kst-35657-3.html>
- ²⁰ The Use of Voter Data in The Netherlands, p 5, https://cdn.ttc.io/s/ourdataourselves.tacticaltech.org/DigitalLiteracyandTacticsinDutchPolitics_FullReport.pdf
- ²¹ Oekaze Kok, <https://kennisopenbaarbestuur.nl/het-geheugen-van-bzk/de-ambtenaar/tijdlijn-de-ambtenaar-1/1992-1999/1998-oekaze-kok/>.
- ²² NRC, <https://www.nrc.nl/nieuws/2021/02/22/de-rode-roos-maakt-plaats-voor-het-online-filmpje-a4032842>
- ²³ Open Government Partnership, IRM Netherlands Design Report 2018-2020, p 21, https://www.opengovpartnership.org/wp-content/uploads/2020/06/Netherlands_Design_Report_2018-2020_EN.pdf
- ²⁴ Tweede Kamer, December 2020, Verslag Parlementaire ondervragingscommissie Kinderopvangtoeslag, https://www.tweedekamer.nl/sites/default/files/atoms/files/20201217_eindverslag_parlementaire_ondervragingscommissie_kinderopvangtoeslag.pdf
- ²⁵ In addition, this commitment is connected to RDDI's Multi-year Plan for the Improvement of Information Management for Central Government 2019-2025 (MYP) is part of the action plan 'Open on Order'. See <https://www.informatiehuishouding.nl/open-op-orde> and <https://www.informatiehuishouding.nl/onderwerpen/meerjarenplan/documenten/publicaties/2021/01/12/mjp-2021>
- ²⁶ Significant, <https://www.pianoo.nl/sites/default/files/documents/documents/inkoopvolume-van-nederlandse-overheid-september2016.pdf>
- ²⁷ Data includes the nature and duration of the contract, number of bidders, business registration number of the supplier, etc., (the overview is updated quarterly), <https://www.rijksoverheid.nl/documenten/publicaties/2018/12/06/rijkscontracten/>
- ²⁸ Rijksoverheid, <https://www.rijksoverheid.nl/documenten/rapporten/2017/03/01/openbare-rijksaanbestedingen>
- ²⁹ Waterbouwers, <https://www.waterbouwers.nl/nieuws/526-verschillen-tussen-tendered-en-aanbestedingskalender-nl-en-een-kortingsaanbod-van-aanbestedingskalender-nl>
- ³⁰ Dutch IT-channel, <https://dutchitchannel.nl/620863/atos-adviseert-overheid-om-tendered-uit-te-faseren.html>
- ³¹ Rijksoverheid, <https://www.rijksoverheid.nl/onderwerpen/zakendoen-met-het-rijk/hoer-het-rijk-inkoopt/categorieplannen-van-het-rijk>
- ³² Pianoo, <https://www.pianoo.nl/nl/document/10267/eindrapport-grip-op-ict-commissie-elias-kabinetreactie-voortgangsrapportages>
- ³³ Rijksoverheid, <https://www.rijksoverheid.nl/documenten/rapporten/2019/10/28/inkopen-met-impact>
- ³⁴ Open Overheid, <https://www.open-overheid.nl/open-overheid/open-inkoop-publiceert-projectplan/attachment/projectplan-contract-register-definitieve-versie/>
- ³⁵ <https://www.b20saudi-arabia.org.sa/wp-content/uploads/2020/09/B20-Integrity-Compliance-Policy-Paper-30092020.pdf>
- ³⁶ Open Government Partnership, Global Report: Open Contracting, <https://www.opengovpartnership.org/documents/global-report-open-contracting/>
- ³⁷ Open Ownership, Five areas where beneficial ownership transparency is key in addressing Coronavirus, <https://www.openownership.org/news/five-areas-where-beneficial-ownership-transparency-is-key-in-addressing-coronavirus/>
- ³⁸ Overheid.nl, Open data of the government, <https://data.overheid.nl/en/community>
- ³⁹ Rijksoverheid, <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/04/17/kamerbrief-inzake-vrijgeven-broncode-overheidssoftware>
- ⁴⁰ De Rechtspraak, <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Den-Haag/Nieuws/Paginas/SyRI-wetgeving-in-strijd-met-het-Europees-Verdrag-voor-de-Rechten-voor-de-Mens.aspx>
- ⁴¹ See for example the 2014 Rathenau Institute: <https://www.rathenau.nl/nl/digitale-samenleving/maatschappij-niet-klaar-voor-digitale-samenleving>, the 2016 report by the Netherlands Scientific Council for Government Policy (WRR) published a report that providing a broad range of recommendations to 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: <https://english.wrr.nl/publications/policy-briefs/2017/01/31/big-data-and-security-policies-serving-security-protecting-freedom>
- ⁴² Tweede Kamer, <https://www.tweedekamer.nl/kamerstukken/detail?id=2016D43893&did=2016D43893>
- ⁴³ Algemene Rekenkamer, <https://www.rekenkamer.nl/publicaties/rapporten/2021/01/26/aandacht-voor-algoritmes>
- ⁴⁴ The Netherlands National Action Plan 2018-2020, End-of-Term Self-Assessment Report, https://www.opengovpartnership.org/wp-content/uploads/2020/12/Netherlands_End-of-Term_Self-Assessment_2018-2020_EN.pdf
- ⁴⁵ Open Government Partnership, IRM Netherlands Design Report 2018-2020, p 30, https://www.opengovpartnership.org/wp-content/uploads/2020/06/Netherlands_Design_Report_2018-2020_EN.pdf
- ⁴⁶ Rijksoverheid, Procurement with impact, <https://www.denkdoeduurzaam.nl/tips-en-tools/documenten/publicaties/2020/08/20/procurement-with-impact>
- ⁴⁷ Open Government Partnership, Open Algorithms Network, <https://www.opengovpartnership.org/about/partnerships-and-coalitions/open-algorithms-network/>
- ⁴⁸ City of Amsterdam Algorithm Register, <https://algoritmeregister.amsterdam.nl/en/ai-register/>
- ⁴⁹ Rathenau Instituut, <https://www.rathenau.nl/nl/digitale-samenleving/technologisch-burgerschap-de-democratische-uitdaging-van-de-eeentwintigste>
- ⁵⁰ Nationale Ombudsman, <https://www.nationaleombudsman.nl/nieuws/2021/ombudsvisie-op-gebruik-van-data-en-algoritmen-door-de-overheid-stel-burgers-centraal>

⁵¹ Nationale Ombudsman,

<https://www.nationaleombudsman.nl/system/files/bijlage/Cijferbijlage%20jaarverslag%202019%20def.pdf>

⁵² According to the action plan, the international fora where the experiences from this commitment will be shared include the HLPF in New York in July 2021, the UN Global Data Forum in October 2021 in Bern, the OGP Summit in Seoul in December 2021, and the IOI world conference 2021/2022. See p 34, https://www.opengovpartnership.org/wp-content/uploads/2021/01/Netherlands_Action-Plan_2020-2022.pdf

⁵³ International Ombudsman Institute, www.theioi.org

⁵⁴ https://knowledgehub.transparency.org/assets/uploads/kproducts/ti_document_-_guide_complaint_mechanisms_final.pdf

Section III. Methodology and IRM Indicators

The purpose of this review is not an evaluation like former IRM reports. It is intended as an independent quick technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This approach allows the IRM to highlight the strongest and most promising commitments in the action plan based on an assessment of the commitment per the key IRM indicators, particularly commitments with the highest potential for results, the priority of the commitment for country stakeholders and the priorities in the national open government context.

To determine which reforms or commitments the IRM identifies as promising the IRM follows a filtering and clustering process:

Step 1: determine what is reviewable and what is not based on the verifiability of the commitment as written in the action plan.

Step 2: determine if the commitment has an open government lens. Is it relevant to OGP values?

Step 3: Commitments that are verifiable and have an open government lens are reviewed to identify if certain commitments need to be clustered. Commitments that have a common policy objective or commitments that contribute to the same reform or policy issue should be clustered and its “potential for results” should be reviewed as a whole. The clustering process is conducted by IRM staff, following the steps below:

- a. Determine overarching themes. They may be as stated in the action plan or if the action plan is not already grouped by themes, IRM staff may use as reference the thematic tagging done by OGP.
- b. Review objectives of commitments to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
- c. Organize commitments by clusters as needed. Commitments may already be organized in the Action Plan under specific policy or government reforms or may be standalone and therefore not clustered.

Step 4: assess the potential for results of the cluster or standalone commitment.

The filtering process is an internal process and data for individual commitments is available in Annex I below. In addition, during the internal review process of this product the IRM verifies the accuracy of findings and collects further input through peer review, the OGP Support Unit feedback as needed, interviews and validation with country-stakeholders, and sign-off by the IRM’s International Experts Panel (IEP).

As described in the filtering process above, the IRM relies on **three key indicators** for this review:

I. Verifiability

- “Yes” Specific enough to review. As written in the action plan the objectives stated and actions proposed are sufficiently clear and include objectively verifiable activities to assess implementation.

- “No”: Not specific enough to review. As written in the action plan the objectives stated and proposed actions lack clarity and do not include explicit verifiable activities to assess implementation.

*Commitments that are not verifiable will be considered “not reviewable”, and further assessment will not be carried out.

II. Does it have an open government lens? (Relevant)

This indicator determines if the commitment relates to open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration, the OGP Articles of Governance and by responding to the guiding questions below. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institutions, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP Values as defined in the Articles of Governance. In addition, the following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable legal, policy, or institutional frameworks to foster accountability of public officials?

III. Potential for results

Formerly known as the “potential impact” indicator, it was adjusted taking into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, this indicator was modified so that in this first review it laid out the expected results and potential that would later be verified in the IRM Results Report, after implementation. Given the purpose of this Action Plan Review, the assessment of “potential for results” is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.

- **Modest:** A positive but standalone initiative or changes to process, practice, or policies. Commitments that do not generate binding or institutionalized changes across government or institutions that govern a policy area. For example, tools like websites, or data release, training, pilot projects.
- **Substantial:** A possible game changer to the rules of the game (or the creation of new ones), practices, policies, or institutions that govern a policy area, public sector, and/or relationship between citizens and state. The commitment generates binding and institutionalized changes across government.

This review was prepared by the IRM in collaboration with Bart Scheffers and overseen by the IRM's International Experts Panel (IEP). The current IEP membership includes:

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Juanita Olaya

For more information about the IRM refer to the **"About IRM" section of the OGP website** available [here](#).

Annex I. Commitment by Commitment Data⁵⁵

<p>Commitment 1: Transparency in the Political Parties Act</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial
<p>Commitment 2: Transparency of the electoral process</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 3: Digital Democracy</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 4: Continuation of Open Wob</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 5: Active disclosure of central government information</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 6: Plain Language Brigade</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 7: The Future of 'Policy Intimacy'</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 8: Investing in craftsmanship of civil servants in public access and disclosure of information</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Unclear
<p>Commitment 9: Contract Register in the Netherlands</p>

<ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
<p>Commitment 10: Open data communities</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • This commitment has been clustered as: Open technology (Commitments 10, 11, and 12 in the action plan) • Potential for results: Modest
<p>Commitment 11: Open source</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • This commitment has been clustered as: Open technology (Commitments 10, 11, and 12 in the action plan) • Potential for results: Modest
<p>Commitment 11: Open algorithms</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? No • This commitment has been clustered as: Open technology (Commitments 10, 11, and 12 in the action plan) • Potential for results: Modest
<p>Commitment 13: Open data for public complaints</p> <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial

⁵⁵ **Editorial notes:**

1. For commitments that are clustered: the assessment of potential for results is conducted at the cluster level, rather than the individual commitments.
2. Commitment short titles may have been edited for brevity. For the complete text of commitments, please see the Netherlands action plan: https://www.opengovpartnership.org/wp-content/uploads/2021/01/Netherlands_Action-Plan_2020-2022.pdf

Annex 2: Minimum Requirements for Acting According to OGP Process

According to OGP’s Procedural Review Policy, during development of an action plan, OGP participating countries must meet the “Involve” level of public influence per the IRM’s assessment of the co-creation process.

To determine whether a country falls within the category of “involve” on the spectrum, the IRM assesses different elements from OGP’s Participation & Co-creation Standards. The IRM will assess whether the country complied with the following aspects of the standards during the development of the action plan, which constitute the minimum threshold:

1. **A forum exists:** there is a forum to oversee the OGP process.
2. **The forum is multi-stakeholder:** Both government and civil society participate in it.
3. **Reasoned response:** The government or multi-stakeholder forum documents or is able to demonstrate how they provided feedback during the co-creation process. This may include a summary of major categories and/or themes proposed for inclusion, amendment or rejection.

The table below summarizes the IRM assessment of the three standards that apply for purposes of the procedural review. The purpose of this summary is to verify compliance with procedural review minimum requirements, and it is not a full assessment of performance under OGP’s Co-creation and Participation Standards. A full assessment of co-creation and participation throughout the OGP cycle will be provided in the Results Report.

Table 2. Summary of minimum requirements to act according to OGP Process

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

<i>OGP Standard</i>	<i>Was the standard met?</i>
A forum exists. The Netherlands has a functional multi-stakeholder forum that meets regularly. In December 2020, the Netherlands launched a separate network called the Open Government Alliance to share knowledge between commitment holders and stakeholders involved in the fourth action plan. ⁵⁶	Green
The forum is multi-stakeholder. The forum includes representatives from national and local government, as well as civil society. ⁵⁷	Green

The government provided reasoned response on how the public’s feedback was used to shape the action plan. The government disclosed on the OGP repository website clear statements on which topics were discussed, and shared metrics of polls it conducted to highlight what topics/themes should be included.⁵⁸ It did not, however, extensively share the deliberations on what certain, presumably more politically sensitive topics, were omitted during co-creation. It also did not share earlier draft versions of the action plan (as shared/collaborated on in the multi-stakeholder forum) that would have allowed external audiences to track this process and discussion more closely.

Yellow

⁵⁶ Open Overheid, <https://www.open-overheid.nl/alliantie-open-overheid/>

⁵⁷ Open Overheid, <https://www.open-overheid.nl/multi-stakeholder-forum/>

⁵⁸ Open Overheid, <https://www.open-overheid.nl/open-overheid/uitkomsten-consultatie-actieplan-open-overheid/>