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Action Plan Review: Portugal 2021–2023

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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 lessons from over 350 independent, evidence-based, and robust assessments conducted by the IRM and input 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 action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This product will 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 31 August 2021. Results report are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of Portugal's 2021–2023 action plan. The action plan has nine commitments. This review analyses 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.

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

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Section I: Overview of the 2021–2023 Action Plan

Portugal's promising commitment on transparency of COVID-19 recovery and resilience funding could strengthen openness in procurement and introduce important civic monitoring mechanisms. Following an improved participatory co-creation process, effective multistakeholder engagement could enhance ambition and precisely identify the open government results of commitments during implementation of the action plan.

Portugal's second action plan contains nine commitments focusing on e-government initiatives, open data and increased access to information, beneficial ownership, public spending, education, and cybersecurity.

Most commitments are in new policy areas except those promoting access to information, which build on activities from the first action plan. Five commitments are part of other government initiatives (e.g., the SIMPLEX modernization programme) and civil society directly proposed two commitments (Commitment 8 on COVID-19 recovery and resilience funding, and Commitment 9 on enhancing access to information).

Compared to the previous action plan cycle, there were improvements to the development of commitments as the co-creation process included early, direct public outreach. The process encompassed a survey, policy assessment, three public workshops organised by civil society, four sessions between civil society and government to develop commitments, and a public consultation on the final version. Although the draft did not immediately meet civil society expectations, the commitment on beneficial ownership was strengthened, and commitments on COVID-19 recovery funding and access to information were included in the final plan as a result of civil society advocacy.

Commitment 8 on transparency of COVID-19 recovery and resilience funding demonstrates substantial potential for results. It would ensure all procurement-process and contract information for dispersing funds from the European Union's (EU) Recovery and Resilience Plan are transparent and linked to different government data sources. In many ways, the commitment builds on advances made in e-procurement in Portugal, but it goes further by ensuring all procurement process are available in open data. In

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AT A GLANCE

Participating since: 2017
Action plan under review: 2021–2023
IRM product: Action Plan Review
Number of commitments: 9

Overview of commitments:
- Commitments with an open gov lens: 6 (67%)
- Commitments with substantial potential for results: 1 (11%)
- Promising commitments: 1 (11%)

Policy areas:
Carried over from previous action plans:
- Access to information
- Open data

Emerging in this action plan:
- Beneficial ownership transparency
- Transparency of COVID-19 recovery funds

Compliance with OGP minimum requirements for co-creation:
- Acted according to OGP process: Yes

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addition, envisioned Integrity Pacts could significantly expand the use of civic monitoring on the €16.6 billion of EU funding.

Other commitments in the action plan present modest advances in their respective policy areas or have unclear potential for results. Commitments 1–4 are related to Portugal's SIMPLEX simplification and modernization programme. The IRM was unable to establish an open government lens for commitments 2-4 because they focus on e-government and public service delivery outcomes and not on improving access to information, citizen participation, or public accountability. This could change if, for example, they considered using innovative citizen participative methods to influence the changes being proposed. Commitment 5 is too broad, although engaging with citizens to understand their data needs may help focus implementation and could be reflected in newly published datasets. Commitments 6 on promoting cybersecurity and 9 on access to information do not point to clear changes in policy or government practice and thus have an unclear potential for results within the action plan period. The need to adopt various pieces of legislation that could take a while to pass through parliament presents a major barrier limiting the potential of Commitment 7 on beneficial ownership transparency within the action plan cycle. In any case, the awareness-raising efforts need to be systematic and extensive to effectively prepare businesses with the requirements to provide beneficial ownership data.

The commitments can be adapted during implementation to enhance their ambition and secure stronger results for open government. On beneficial ownership, it is necessary that access to a register be available to anyone without restriction, that the authorities enforce the submission of up-to-date and accurate data, and that they implement a verification mechanism. Finally, for the promising commitment on increasing transparency of COVID-19 recovery and resilience funding, authorities must ensure that detailed data on procurement and contracts are published in a timely manner as open data. To ensure effective public oversight, the government needs to implement civic monitoring mechanisms that also facilitate reporting irregularities of COVID-19 recovery procurement and contracts to the relevant authorities for further investigation.

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Section II: Promising Commitments in Portugal's 2021–2023 Action Plan

The following review looks at one commitment that the IRM identified as having the potential to realize the most promising results. This review will inform the IRM's research approach to assess implementation in the results report. The IRM results report will build on the early identification of potential results from this review to contrast with the outcomes at the end of the action plan's implementation period. This review also analyses challenges, opportunities, and recommendations to aid the learning and implementation process of this action plan.

Commitment 8 on increasing the transparency of COVID-19 recovery and resilience funding is analysed in depth in this review. It would increase the amount of information available on procurement and dispersal of €16.6 billion of funding, and encourage the development of civic monitoring of this spending.

Commitments 1, 2, 3, and 4 are all connected to Portugal's SIMPLEX simplification and modernization programme, which seeks to improve public service efficiency. Commitment 1 aims to centralize and simplify citizen access to education-related information and services,[1] but results could be more impactful if during implementation, the public administration engages with users of education services to tailor the Single Education Portal to better reflect user needs.

Commitments 2, 3 and 4 may improve government efficiency or citizen access to public services through digitization, but the IRM was unable to establish that these commitments clearly set out to make a policy area, institution or decision-making process more transparent, participatory or accountable to the public. Commitment 2 seeks to digitize and automate help for public service users by developing a virtual assistant on the Portal das Finanças website. However, engaging with users of the Portal das Finanças website to improve, simplify, streamline or better explain how to use their public services would give the commitment a clearer open government lens. Commitment 3 would create more inclusive ways for accessing public services, but it is not clear that digitization and modernization of services would provide the intended beneficiaries with new or better-quality information than was already available. Commitment 4 seeks to improve data interconnection between different public entities, but should be followed up with actions that would bring greater transparency, participation or accountability, rather than solely focusing on increasing government efficiency in data management.

Commitment 5 seeks to increase the number of entities publishing data on the Dados.gov open data portal, as well as raise awareness and enhance usage amongst businesses, civil society, and the public. The commitment is of interest to civil society,[2] and milestones engaging civil society and citizens to understand their data needs could result in positive outcomes. However, the commitment is broad; it seeks to improve the quality and quantity of publicly available datasets, but with no clarity on the policy goals or how to improve decision making. Future commitments on publishing datasets would benefit from analyses of the deficiencies and identification of where open data would have most benefit to decision making.

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According to the government, the topic of cybersecurity repeatedly appeared during co-creation. Commitment 6 therefore seeks to develop initiatives that produce and share knowledge about good cybersecurity practices. This is a relevant topic, particularly as Portugal undertakes its modernization programme to digitize many public services (such as Commitments 1, 2, 3, and 4). However, the potential for results of Commitment 6 is unclear because even though it aims to engage citizens, the milestones do not point toward changes in government policy or practice within the action plan cycle.

Commitment 7 aims to strengthen the Central Register of Beneficial Owners (RCBE) through implementing the beneficial ownership data standard, raising awareness amongst obligated entities about the RCBE's importance and how to submit information, and linking the data to other relevant public datasets. However, interviews with government officials revealed that there are legislative barriers to implementing the data standard and therefore also linking the data to public datasets.[3] While raising awareness will be important to ensure data is regularly and accurately updated, it is necessary for the register itself to be available to anyone without restriction, and that the authorities also enforce the submission of up-to-date and accurate data, including a verification mechanism.

Commitment 9 seeks to promote and ensure implementation of access-to-information legislation. This commitment's potential for results is unclear, as it is dependent on the availability of financial resources to raise awareness of, and implement, current legislative requirements to identify and publish the names of relevant transparency officers within institutions.

Table 1. Promising commitments

Promising Commitments
8. Enhance transparency and corruption prevention in the implementation of the Recovery and Resilience Plan (PRR) and in the application of public funds: This commitment seeks to encourage public oversight of the dispersal of EU funds under the Recovery and Resilience Plan in Portugal. Increasing transparency of such information and engaging citizens as part of the monitoring process could prevent or uncover corruption, and ensure the money is spent effectively.

Commitment 8: Enhance transparency and corruption prevention in the implementation of the Recovery and Resilience Plan and application of public funds
(Administrative Modernization Agency, Platform of Civil Society Associations – House of Citizenship, Transparency International Portugal)
For a complete description of the commitment, see Portugal's action plan:
https://www.opengovpartnership.org/documents/portugal-action-plan-2021-2023/.

Context and objectives:
The EU has made available around 700 billion euros in loans and grants to Member States until 2026 to support reforms and investments that mitigate the economic and social impact of the coronavirus pandemic.[4] The EU has started to disperse money for Portugal's 16.6 billion euro Recovery and Resilience Plan (PRR), which it says will support the green and digital transitions; contribute to effectively addressing challenges identified in the European Semester;[5] and strengthen Portugal's growth potential, job creation, and economic and social resilience.[6] PRR

funding is expected to have a significant positive and long-lasting impact on economic growth as the economy continues to recover, although income remains uncertain (particularly from the tourist industry).[7] The impact of the COVID-19 pandemic has taken a significant toll on the Portuguese national economy and its finances.

Portugal is seen as a digital procurement leader. However, there are corruption risks in the Portuguese procurement system that are known to have been exacerbated by the response to the pandemic—such as conflict of interests and a high percentage of direct awards.[8] Portugal's parliament passed a resolution in January 2021 recommending the government prevent corruption risks during the pandemic such as conflict of interest and inappropriate allocation of public funding.[9]

This commitment has a clear link to the OGP values of access to information and public accountability. It seeks to increase the availability of information on public investment in relation to the PRR via the Mais Transparência portal, interconnect the data with other datasets, raise awareness, and develop citizen monitoring tools to prevent corruption (such as through Integrity Pacts).

This commitment came out of multistakeholder forum discussions following the first draft of the action plan, which did not originally include this topic.[10] Civil society felt the action plan needed to include more bold and innovative commitments.[11] The commitment brings together different actions from the Portuguese National Anti-Corruption Strategy, the National Plan for Administrative Modernization, and the Action Plan for Digital Transition.[12]

Potential for results: Substantial
This commitment has substantial potential for results on enhancing transparency and particularly for increasing public oversight in public procurement. Both civil society and government see this as a very important commitment with potential for significant impact.[13]

In terms of transparency, the commitment aims to publish information on the figures, beneficiaries, and suppliers of billions of euros in public investment by implementing the PRR. Despite being a European leader in publishing information on the tender, award, contract, and implementation of procurement contracts,[14] civil society reports there are still a large number of contracts that are not published as open data, making it hard to assess the formation of contracts, their value for money, or sustainability.[15] Implementing this commitment could ensure that the procurement process for PRR funds meets the highest expectations of transparency. Transparency International Portugal (TI Portugal) see this in itself as a significant step forward.[16] This enhanced transparency and openness in PRR procurement information would enable implementation and potential early results from the ambitious milestone of facilitating civic monitoring tools (such as Integrity Pacts).[17] The Integrity Pacts concept is still a novelty as there has been only one Integrity Pact ever implemented in Portugal.[18] The National Anti-Corruption Strategy 2020-2024 highlighted this first Integrity Pact (for the restauration of the Alcobaça Monastery) as an example for future procurement projects. These pacts would reinforce transparency, ensure appropriate use of public funds, and promote public oversight and trust in public spending.[19] Ensuring the creation and wide implementation of citizen monitoring tools for the dispersal of PRR funds could help to prevent corruption and lessen the chances of conflict of interest, thereby saving taxpayer money and ensuring public works are implemented efficiently. TI Portugal warns however, that public oversight (via integrity pacts,

data visualizations, or other civic monitoring tools), is highly dependent on the provision and use of open data and transparency in the procurement process.[20]

At this stage, details of what exactly could be published and how actions will take shape is unclear; this will be discussed at the first working group meeting on implementing this commitment.[21] The Mais Transparência portal, launched in April 2021, already holds basic data in relation to the general state budget and PRR funds.[22] Users can explore an overview of the spending, contracting, and expected results of the PRR,[23] as well as download XLS lists of already-contracted projects and entities under the PRR, by thematic area, region, or institution.[24] It also links to the Recuperar Portugal website which publishes and administers tenders under the PRR.[25] Thus, the Mais Transparência portal provides a central base from which to publish detailed open data on procurement processes implementing PRR funds. Furthermore, civil society foresees that implementing Milestone 4, linking the data to other portals such as BASE Portal (Portugal's centralized public contracts portal), would further public access to this information.[26] Linking data across different platforms would also complement Milestone 2 on raising awareness about this information, as it would be accessible via different transparency and procurement portals.

Opportunities, challenges, and recommendations during implementation
The aims of this commitment are similar to an ambitious previous commitment on increasing procurement transparency and oversight in Portugal's 2018–2020 action plan. This previous commitment sought to strengthen transparency in public procurement, apply tools for civic monitoring, publish all contracts in open data by default on the BASE Portal, and publish all supporting documents for contracts. However, the commitment saw limited implementation by the end of the 2018–2020 cycle; authorities will need to ensure this is not repeated and that early results are demonstrated throughout the 2021–2023 implementation cycle.

At the time of writing this report—December 2021— the working group for this commitment had not yet met. They need to determine the timeliness on publishing the data and clarify exactly what data points need to be published in open data and how. While civil society has identified potential solutions for publishing relevant procurement information, technology and institutional constraints (such as legacy software and a lack of training) could hinder implementation.[27] Effective solutions need to consider the ease of public access to the data, the timeliness in publishing it, interoperability with other datasets, and institutional capacity for conducting these activities now and beyond the action plan implementation period.

As well as contributing toward transparent PRR funding, this commitment aims to prevent corruption and misuse of public funds, strengthen public trust in the management of these funds, and maximise their social impact. Civil society analysis has shown 80% of procurement procedures in Portugal are won through direct awards, which open them up to a higher risk of corruption.[28] While it is unclear if transparency alone may change how procurement tenders are awarded, the working group for this commitment could prioritise civic monitoring of projects won through direct awards. Prioritising can also help effective resource use as it is unlikely that it will be possible to apply resource-heavy Integrity Pacts to all procurement projects.

Where integrity pacts are not possible, other civic monitoring tools may facilitate public oversight and scrutiny of PRR funds. Timely publication of detailed open data on PRR procurement processes and contracts is essential if these tools are to provide useful information

to the public. Effective publication enables linking information to other databases, comparisons and analysis, and civic monitoring. Italy's OpenCoesione initiative successfully brings more transparency and public oversight to European Union Cohesion Policy funding; it could be a template for Portugal to ensure transparency and broad public oversight that actively includes citizens, businesses, government, civil society, and researchers.[29]

This commitment could be more ambitious on civic monitoring if it facilitated the reporting and investigation of irregularities in the use of PRR funds to the appropriate authorities. While the current commitment would implement integrity pacts and promote tools to facilitate citizen monitoring, there is space for other formal mechanisms that allow individuals or organizations to report corruption easily and efficiently to the appropriate authorities. This is important as integrity pacts, which require significant resourcing, are unlikely to be applied to all procurement projects. Providing formal channels for reporting corruption would further strengthen one of the aims of the commitment to prevent corruption. In 2021, the Portuguese Competition Authority handed out €120m euros worth of fines in relation to corrupt procurement practices (with fines totalling over €900m since 2017).[30] This shows that appropriate authorities exist that can investigate and sanction corruption in the dispersal of PRR funds. Civil society has also stated that it is crucial that transparent procurement portals make risks for corruption visible to public authorities and the public.[31] The government could therefore learn from Ukraine's successful Dozorro monitoring ecosystem and create a sustainable community of civic monitors including civil society, businesses, and individuals who can identify and submit reports of irregularities.[32] The appropriate authorities (e.g., the Portuguese Competition Authority) could receive reports and investigate the allegations efficiently, and even support civic monitors via training events to continue building capacity.

- Data on procurement and contracts related to COVID-19 resilience and recovery funds must be **made available online in a timely manner**. **The data must be in open and machine-readable formats like the Open Contracting Data Standard, and with sufficient detail** to ensure proactive transparency and civic monitoring. Portugal could learn from the United Kingdom's implementation of clear commitments to improve quality, timeliness, and relevance of public procurement data and publishing data in the Open Contracting Data Standard.[33]

- The working group for this commitment could look at **how Portugal would prioritise the implementation of Integrity Pacts for PRR funds**. Directly awarded projects have higher risks of corruption and could benefit from being prioritized. In any case, there needs to be sufficient resourcing to provide Integrity Pacts on various projects from PRR funds. This could also include a training programme to broaden the number of individuals and organizations who can monitor and oversee PRR funding.

- Building on the development of civic monitoring tools, **the government could hold trainings on how to utilize and monitor contracting and procurement data, and establish citizen feedback mechanisms to report irregularities**. Italy's OpenCoesione initiative could be a useful system to replicate in the Portuguese context.[34] Similarly, the Ukraine's public procurement monitoring system (Dozorro) is an example of pushing ambition and empowering citizens to submit feedback and send alerts on possible irregularities and violations of public funding.[35]

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[1] Nuno Rodrigues (Directorate-General for Statistics of Education and Science), interview by IRM researcher, 18 Nov. 2021.

[2] Luís Vidigal (PASC and APDSI), interview by IRM researcher, 19 Nov. 2021.

[3] Patrícia Paralta, Marta Cotrim, and Elsa Belo (LabX and Administrative Modernisation Agency (AMA)), interview by IRM researcher, 8 Nov. 2021.

[4] European Commission, "The Recovery and Resilience Facility" (accessed 17 Jan. 2022), https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en.

[5] The European Semester is a well-established forum (introduced in 2011) for discussing and coordinating EU countries' fiscal, economic, and employment policy challenges under a common annual timeline. *See* European Commission, "The European Semester" (accessed 17 January 2022), https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en.

[6] European Commission, "NextGenerationEU: European Commission endorses Portugal's €16.6 billion recovery and resilience plan" (16 Jun. 2021), https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2985.

[7] European Commission, *Post-Programme Surveillance Report: Portugal Spring 2021* (Jun. 2021), https://ec.europa.eu/info/sites/default/files/economy-finance/ip152_en.pdf.

[8] Karolis Granickas, "Portugal: What you need to know about the EU's e-procurement champion" (Open Contracting Partnership, 16 Apr. 2020), https://www.open-contracting.org/2020/04/16/portugal-what-you-need-to-know-about-the-eus-e-procurement-champion/; and European Commission, *Commission Staff Working Document: 2021 Rule of Law Report Country Chapter on the rule of law situation in Portugal* (20 Jul. 2021), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0723&from=EN.

[9] Assembly of the Republic (Portugal), "Recomenda ao Governo a prevenção de riscos de corrupção durante a pandemia" [Recommendation to the Government to prevent corruption risks during the pandemic] (25 Jan. 2021), https://www.cpc.tcontas.pt/imprensa/noticias/2021/resolucao_ar_4-2021.pdf.

[10] Paralta, Cotrim, and Belo, interview.

[11] Karina Carvalho (Transparency International Portugal), interview by IRM researcher, 16 Nov. 2021.

[12] *Id.*

[13] Paralta, Cotrim, and Belo, interview; Carvalho, interview; and Vidigal, interview.

[14] Granickas, "Portugal: What you need to know about the EU's e-procurement champion."

[15] Karina Carvalho (Transparency International Portugal), interview by IRM researcher, 6 Dec. 2021.

[16] *Id.*

[17] *Id.*

[18] *See* Transparency International Portugal, "The Integrity Pact in Alcobaça Monastery" (accessed 17 January 2021), https://pactodeintegridade.transparencia.pt/integrity-pact/.

[19] Ministry of Justice, *Estratégia Nacional Anticorrupção 2020-2024* [National Anti-corruption Strategy 2020-2024] (1 Apr. 2021), https://justica.gov.pt/Portals/0/Ficheiros/Organismos/JUSTICA/ENAC010421.pdf.

[20] Carvalho, interview, 6 Dec. 2021.

[21] Paralta, Cotrim, and Belo, interview; Carvalho, interview, 16 Nov. 2021.

[22] Mais Transparência, "Sobre o Portal" [About the Portal] (accessed 17 Jan. 2022), https://transparencia.gov.pt/sobre-o-portal.

[23] This can be done through each stage of the plan, regionally, by institution. *See* Mais Transparência, "Plano de Recuperação e Resiliência" [Recuperation and Resilience Plan] (accessed 17 Jan. 2022), https://transparencia.gov.pt/fundos-europeus/tema/prr.

[24] *See* Mais Transparência, "Contratualização" [Contracting] (accessed 17 Jan. 2022), https://transparencia.gov.pt/fundos-europeus/prr/contratualizacao/; Mais Transparência, "Investimento por regiões" [Investment by Region] (accessed 17 Jan. 2022), https://transparencia.gov.pt/fundos-europeus/investimento-por-regioes/; Mais Transparência, "Áreas de investimento" [Areas of Investment] (accessed 17 Jan. 2022), https://transparencia.gov.pt/fundos-europeus/areas-de-investimento/.

[25] Recuperar Portugal, [Home Page] (accessed 17 Jan. 2022), https://recuperarportugal.gov.pt/;

[26] Carvalho, interview, 16 Nov. 2021; Vidigal, interview.

[27] Vidigal, interview.

[28] Granickas, "Portugal: What you need to know about the EU's e-procurement champion."

[29] OpenCoesione, [Home Page] (accessed 14 Jan. 2022), https://opencoesione.gov.it/.

[30] Competition Authority, *Resultados AdC 2021* [Competition Authority Results 2021] (accessed 17 Jan. 2022),, https://www.concorrencia.pt/sites/default/files/Resultados%20AdC%202021.pdf.

[31] Vidigal, interview.

[32] Transparency International Ukraine, *Dozorro Story* (Apr. 2019), https://www.oecd-opsi.org/wp-content/uploads/2019/04/DOZORRO-STORY-ENG.pdf.

[33] Open Government Partnership, "A Guide to Open Government and the Coronavirus: Public Procurement" (28 Apr. 2020), https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus-public-procurement/.

[34] OpenCoesione, [Home Page.]

[35] Via Dozorro, more than 700,000 users have flagged nearly 74,000 concerns, of which 20,000 were found to relate to actual violations. Open Government Partnership, "Open Contracting and Public Procurement" (accessed 17 Jan. 2022), https://www.opengovpartnership.org/policy-area/open-contracting/.

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Section III: Methodology and IRM Indicators

The purpose of this review is not an evaluation as 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 <u>verifiability</u> of the commitment as written in the action plan.
> **Step 2:** determine if the commitment has an <u>open government lens</u>. Is it relevant to OGP values?
> **Step 3:** Commitments that are verifiable and have an open government lens are reviewed to identify if certain commitment needs 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 <u>potential for results</u> 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 includes 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 a 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 Ekaterina Gorbunova and overseen by the IRM's International Experts Panel (IEP). The IEP membership included:
- 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.

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Annex 1: Commitment-by-Commitment Data[1]

Commitment 1: Implement the single education portal
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 2: Develop autonomous virtual assistance in the Portal das Finanças
- Verifiable: Yes
- Does it have an open government lens? No
- Potential for results: Unclear

Commitment 3: Develop inclusive service channels for accessing public services
- Verifiable: Yes
- Does it have an open government lens? No
- Potential for results: Modest

Commitment 4: Create a manual of best practices with standards for data interconnection
- Verifiable: Yes
- Does it have an open government lens? No
- Potential for results: Unclear

Commitment 5: Develop and disseminate the Dados.gov portal
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Unclear

Commitment 6: Raise awareness and build capacity on cybersecurity issues
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Unclear

Commitment 7: Enhance transparency by strengthening the central register of beneficial owners
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 8: Enhance transparency and corruption prevention in the implementation of the Recovery and Resilience Plan and application of public funds
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

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Commitment 9: Promote citizenship by enhancing access to information

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Unclear

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[1] **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 Portugal's action plan: https://www.opengovpartnership.org/documents/portugal-action-plan-2021-2023.

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 the *OGP Participation & Co-creation Standards*. The IRM will assess whether the country complied with the following aspects while developing 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 multistakeholder:** Both government and civil society participate in it.
3. **Reasoned response:** The government or multistakeholder forum documents or can 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 these 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 the *OGP Participation and Co-Creation Standards*; a full assessment will be provided in the results report.

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

OGP Standard	Was the standard met?
A forum exists. The Portuguese Network for Open Administration develops, coordinates, implements, and oversees Portugal's OGP action plan process.[1] The forum met three times to oversee the process for developing the commitments for this second action plan.[2] There were multiple events for co-creation with a broader audience.	Green
The forum is multistakeholder. The forum is made up of the same civil society and government members as for the first action plan. Possible expansion of the membership is being discussed.[3] During co-creation, there were multiple events with the public, civil society, and government institutions.	Green

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The government provided a reasoned response on how the public's feedback was used to shape the action plan. The government published a summary about the three discovery-phase workshops with citizens, a survey, a policy assessment[4] and a summary of the four cocreation sessions for developing the action plan.[5] Minutes from the multistakeholder forum include further detail on the discussions about whether or not to include commitments in the action plan following co-creation workshops.[6] Civil society was satisfied with the reports' details of what was discussed and possible proposed commitments.[7] During the public consultation, the government responded directly by commenting on the comments from the public.[8]	Green

[1] Open Government Partnership Portugal, "Who We Are / What We Do?" (Administrative Modernisation Agency, 17 Jan. 2022), https://ogp.eportugal.gov.pt/en/who-we-are-what-we-do.

[2] Open Government Partnership Portugal, "12th Meeting of the National Network for Open Administration" (Administrative Modernisation Agency, 13 Nov. 2020), https://ogp.eportugal.gov.pt/en/noticia23; Open Government Partnership Portugal, "13th Meeting of the National Network for Open Administration" (Administrative Modernisation Agency, 22 Jan. 2021), https://ogp.eportugal.gov.pt/en/noticia30; Open Government Partnership Portugal, "14th Meeting of the National Network for Open Administration" (Administrative Modernisation Agency, 26 Mar. 2021), https://ogp.eportugal.gov.pt/en/noticia31.

[3] Patrícia Paralta, Marta Cotrim, and Elsa Belo (LabX and AMA), interview by IRM researcher, 8 Nov. 2021.

[4] AMA, *Relatório da fase de descoberta da cocriação e desenvolvimento ii plano de ação nacional de administração aberta* [Report on the discovery phase of co-creation and development of the second open government national action plan] (15 Jan. 2020), https://ogp.eportugal.gov.pt/documents/48760/286518/Relat%C3%B3rio_Fase_Descoberta_II+PANAA_v1.0.pdf/49af1a06-c5c1-cf26-6d26-7605f9744881; for articles, *see:* Open Government Partnership Portugal, "Forum #1 'Technological Change, Open Data and Digital Inclusion'" (2 Dec. 2020), https://ogp.eportugal.gov.pt/noticia26; Open Government Partnership Portugal, "Forum #2 «Open Administration and Civic Participation»" (9 Dec. 2020), https://ogp.eportugal.gov.pt/noticia28; Open Government Partnership Portugal, "Forum #3 'Transparency and access to information'" (11 Dec. 2020), https://ogp.eportugal.gov.pt/noticia29.

[5] AMA, *Relatório de síntese das sessões de cocriação de futuros compromissos* [Summary report on the co-creation sessions for future commitments] (Mar. 2021), https://ogp.eportugal.gov.pt/documents/48760/300701/IIPANAA_Subfase_Cocria%C3%A7%C3%A3o_Relatorio+de+S%C3%ADntese+das+Sess%C3%B5es+de+Cocria%C3%A7%C3%A3o.pdf/a0f746ee-83b1-3191-e2c8-0b7ab1e9f656.

[6] AMA, Minutes of the 15th Multistakeholder Forum, 30 April 2020, https://ogp.eportugal.gov.pt/documents/48760/324882/Ata+-+XV+Reuni%C3%A3o+RNAA.docx.pdf/d0c124a2-92cd-bd4c-41ff-a8679c6d2ed0

[7] Karina Carvalho (Transparency International Portugal), interview by IRM researcher, 6 Dec. 2021.

[8] Patrícia Paralta, (AMA), email correspondence, 24 Feb. 2022.

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