

Independent Reporting Mechanism

Results Report:
The Netherlands
2020-2022

Open
Government
Partnership



Independent
Reporting
Mechanism

Executive Summary

The Netherlands' fourth Open Government Partnership (OGP) action plan saw advancements in transparency of political parties' financing. Preliminary work was also carried out in open contracting and in finding the right balance between government transparency and confidentiality. Going forward, it is important to ensure that OGP action plans support broader open government reforms in the Netherlands.

Early Results

The Netherlands' fourth action plan included 13 commitments.¹ It built on some policy areas from the previous plan, including political party financing, digital democracy, freedom of information, open contracting, and government algorithms. It also introduced new topics such as electoral transparency, plain language in government, and publishing open data for public complaints.

Several promising commitments in the IRM Action Plan Review saw early results.² Commitment 1 had major early results in political party financing transparency. Amendments to the Political Parties Financing Act lowered the threshold for disclosing donations to parties and set bans on donations to political parties from abroad. However, the amendments did not address the topic of digital campaigning and have not closed certain loopholes in financing political parties. Commitment 7 saw important preliminary discussions to resolve tensions around "policy intimacy" (where government information that includes the personal opinions of public officials on policies does not have to be disclosed). Commitment 9 has made it easier to find and access existing procurement data by linking different portals in one register. The IRM also noted improvements in other areas, including the transparency of election results (Commitment 2) and digital democracy (Commitment 3).

Completion

Despite internal changes and competing priorities within the government, levels of completion remained high. Ten of the 13 commitments saw substantial or full implementation. This was similar to the third action plan (2018-2020), which had eight of 11 commitments substantially or fully implemented.³ Most of the commitments identified as promising in the IRM Action Plan Review were at least substantially completed. An exception was Commitment 13, which was not completed because the platform that would host the data on public complaints was not created. This also prevented the completion of Commitment 4.

Given the wish to bring together various efforts in one commitment, the Ministry of the Interior and Kingdom Relations found it challenging at times to define the commitments as specifically as possible. This sometimes made it difficult for the IRM to determine the precise level of completion for commitments and if they led to early results.

IMPLEMENTATION AT A GLANCE

LEVEL OF COMPLETION

10/13

Complete or substantially complete commitments

EARLY RESULTS

10/13

Commitments with early results

1/13

Commitments with major or outstanding early results

COMPLIANCE WITH MINIMUM REQUIREMENTS

Acted according to OGP process.

Participation and Co-Creation

The fourth action plan saw an extensive co-creation process that involved numerous meetings and a variety of new government agencies and civil society stakeholders. During implementation, the OGP portfolio moved within the Ministry of the Interior and Kingdom Relations, leading to a lack of continuity in some commitments. Nonetheless, the multi-stakeholder forum (MSF) met regularly during implementation. Overall, stakeholders were satisfied with the level of engagement, despite challenges related to staff turnover and shifting responsibilities of civil servants following the adoption of the Open Government Act (Woo) in May 2022.

During the adoption of the action plan, the Ministry of the Interior and Kingdom Relations launched an umbrella network called the Open Government Alliance to convene government and civil society stakeholders working in the open government space (including but not limited to those involved in OGP). In 2022, the ministry decided to merge the Open Government Alliance with a separate coalition "Talking about Information", which includes civil society, government, business, and academia. On 17 November 2022, the civil society coalition presented a manifesto with recommendations regarding the information relationship between government and citizens, which are being discussed for the fifth action plan.

Implementation in context

Implementation was impacted by the entry into force of the Woo and by the COVID-19 pandemic. The Woo requires (even more than previous legislation) proactive, voluntary disclosure of government information. It also provides for an "Advisory Committee on Public Access and Information Management" in which civil society and other stakeholders are represented. These changes required much preparatory work in the government. Parts of this work were already included in the action plan and benefited from financial support in relation to the Woo. At the same time, the search for how to best shape the new open government work led to shifts in personnel involved in OGP commitments. Moreover, the IT infrastructure needed for central access to government information did not arrive in time, and the arrival of the Woo, although increasing the need to work on this, did not resolve this challenge.

¹ Open Government Partnership, Netherlands Action Plan 2020-2022,
<https://www.opengovpartnership.org/documents/netherlands-action-plan-2020-2022/>

² Open Government Partnership, Netherlands Action Plan Review 2020-2022,
<https://www.opengovpartnership.org/documents/netherlands-action-plan-review-2020-2022/>

³ Open Government Partnership, Transitional Results Report 2018-2020,
<https://www.opengovpartnership.org/documents/netherlands-transitional-results-report-2018-2020/>

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Section I: Key Observations

The open government work in the Netherlands has grown considerably in recent years, in part because of political momentum resulting from the 2018 childcare allowance scandal. The work also benefitted from the Open Government Act (*Wet open overheid – Woo*) that came into force in May 2022, and which legally mandates many open government reforms. However, the impact of these changes is not always felt within the work on OGP. A challenge that OGP faces in the Netherlands is making its work visible and complementary to broader open government reforms.

Observation 1: Connecting the OGP process to existing open government structures could improve the results of action plans.

The fourth action plan was affected by unnecessary duplication of work among commitment holders and lack of clear ownership and rules for stakeholder participation. A good example was the Open Government Alliance that was announced during the launch of the action plan but had little impact on it. In addition, during implementation, the Woo had far-reaching implications for both local and central government on information management, leading to many new working groups and workflows. Interviewed stakeholders often stated that these limited the government's ability to prioritize OGP work. Going forward, stakeholders could invest in maintaining and possibly expanding existing processes and structures under OGP (i.e., the MSF and the online repository), rather than undertake new platforms for convening stakeholders. At the same time, other initiatives within the government have proven effective in gathering input and providing constructive criticism in thematic areas, such as the coalition 'talking about information' at the National Programme for Sustainable Digital Information Management (RDDI).⁴

Observation 2: Changing organizational culture in the public sector is critical to achieving lasting open government reforms.

A recurrent theme that stakeholders raised were the tensions among civil servants around how transparency can lead to unintended outcomes, such as unfavorable media attention, stalled decision-making, and conflicting loyalties. These issues have become more important against the backdrop of increased political and social attention for government transparency, and a perceived gap between politics and society. Some commitments in the fourth action plan laid the groundwork for future work on these issues. For example, Commitment 7 made incremental but important contributions toward the debate around "policy intimacy". On 6 April 2023, the Ministry of the Interior and Kingdom Relations sent a letter to the House of Representatives with a Cabinet response to advisory reports on chat message archiving and information management. The letter informed the House about the report on policy intimacy and the suggestions endorsed in it to improve the implementation of policy intimacy under the Woo.⁵ Another example was Commitment 8 ("investing in craftsmanship of civil servants in public access and disclosure of information") where the Ministry of General Affairs developed guidance and workshop materials for facilitators to guide 'dilemma conversations'. Going forward, the Netherlands could use the OGP process to further institutionalize broader cultural and behavioral changes in the public sector on issues central to current discussions on trust in government.⁶

Observation 3: Competing government priorities and a disconnect between ambition and available resources can cause gaps and delays in implementation. Some important workstreams for the fourth action plan relied on external human and technical support. For example, stakeholders planned to use the Open Government Information Platform (PLOOI) for certain commitments, even though the PLOOI (and its predecessor KOOP) was not involved in the action plan and was already tasked to serve other open government projects outside of OGP. The PLOOI was ultimately put on hold due to an external assessment,⁷ which directly impacted Commitments 4 and 13. Future action plans could actively involve relevant IT-service providers in the design of activities, to minimize risks to implementation of certain platforms. As a replacement for the PLOOI is not planned for the foreseeable future, the next action plan could draw on earlier work around disclosure platforms, thereby showcasing the added value of OGP in the Netherlands.

Observation 4: Certain key policy areas remain outside the OGP framework, despite political momentum and civil society interest. The fourth action plan sought to take advantage of the growing political momentum around open government when it was developed. Although the government undertook some important work in the action plan, the action plan only partially achieved its broader objectives around (re)building trust and strengthening democratic practice. In part, this was because important policy areas like whistleblower protection and lobbying transparency have not been included in OGP action plans, despite garnering interest among civil society during co-creation. Future action plans could revisit these more sensitive policy areas, to ensure that political momentum is fully harnessed. The Ministry of the Interior and Kingdom Relations notes that it is currently working with the civil society coalition "Talking about Information" to include sensitive policy areas in the next action plan, such as lobbying transparency.⁸

⁴ The coalition gathered signatures and offered a manifest in which it advocates for seven policy actions to, among other things, assure citizen ownership of government information, advance an equal information position of citizens, change culture within the administration and modernize the oath of public officials. See <https://www.informatiehuishouding.nl/>

⁵ See <https://www.rijksoverheid.nl/documenten/kamerstukken/2023/04/06/kamerbrief-reactie-op-adviesrapporten-chatberichtenarchivering-en-informatiebeheer>

⁶ For example, to contribute to a culture of change within the government on openness and transparency, the Ministry of the Interior and Kingdom Relations developed in March 2023 a "Dilemma discussion guide" (Handreiking Dilemmagesprekken) - a tool for government employees to facilitate conversations about how to deal with open work situations, <https://www.open-overheid.nl/instrumenten-en-diensten/instructies/2023/2/15/handreiking-dilemmagesprekken>.

⁷ Following an external review and assessment, it has been recommended to stop developing the PLOOI platform in its current form and invest in a simpler variant. This variant should consist of a referral index and a search function. Minister Hanke Bruins Slot accepted the advice to stop the development of PLOOI. The intention is to start the development of this referral index in the second quarter of 2023. See <https://www.koopoverheid.nl/voor-overheden/rijksoverheid/plooi-platform-open-overheidsinformatie>

⁸ Information provided to the IRM by the Ministry of the Interior and Kingdom Relations during the pre-publication review of this report, 10 May 2023.

Section II: Implementation and Early Results

The following section looks at the three commitments or clusters that the IRM identified as having the strongest results from implementation. To assess early results, the IRM referred to commitments or clusters identified as promising in the Action Plan Review as a starting point. After verification of completion evidence, the IRM also took into account commitments or clusters that were not determined as promising but that, as implemented, yielded significant results.

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

Context and Objectives:

This commitment sought to improve the transparency of political party financing and political campaigns and reducing the risk of undue (foreign) influence on the democratic process. The commitment was highly relevant against the backdrop of recent parliamentary elections, where many parties (including from the ruling coalition) received sizable donations and criticism from GRECO and ODIHR on the lack of transparency in party financing and reporting requirements during election campaigns. Its main objective was to amend the Political Parties Financing Act (*Wet financiering politieke partijen - Wfpp*) as a first step to more comprehensive legislation, the Political Parties Act (*Wet op de Politieke Partijen - Wpp*). The proposed legislative changes would significantly improve regulations and transparency around donations to political parties and the functioning and financing of (digital) political campaigns.⁹

In the Action Plan Review, the IRM identified possible political sensitivities around these topics and recommended that, where possible, a broad array of stakeholders could be involved to help ensure support for the envisioned new rules. It also highlighted the need for an ambitious proposal by the government to Parliament and the Senate to make the desired impact and effectively address current shortcomings.

Did It Open Government? Major

On 12 April 2022, Parliament approved the bill to amend the Wfpp and set new binding rules that will increase the transparency around the financing of political parties and their ancillary institutions.¹⁰ On 18 October 2022, the Senate approved the bill.¹¹ From 1 January 2023, there is a ban on donations from abroad to political parties and donors will be allowed to make donations of a cumulative maximum of €100,000 per year. The amendments lowered the threshold for disclosing donations from €4,500 per donor per year to €1,000, and parties must disclose donations of €10,000 or more per donor per year within three days of receipt. Parties will report this information to the Ministry of Interior and Kingdom Relations, who will then publish the data on its website. In addition, the bill obliges political parties to report on the ultimate beneficial owner in case of donations from legal entities. These obligations are a major improvement in government transparency compared to the situation before the action plan.

At the same time, the bill does not address the topic of digital campaigning, as this will be addressed during the drafting of the Wpp. Moreover, some of the amendments have not closed well-known loopholes. Notably, Parliament rejected an amendment that stipulated that only natural persons will be allowed to make donations to political parties. As a result, foreign

individuals could in theory make donations to a foundation in the Netherlands, and the foundation could subsequently make a legal donation to a political party. It also remains unclear if there will be any control on the origins of donations from Dutch citizens abroad that want to support a political party. During the deliberations in the Senate, some parties expressed concern that these restrictions could affect the enforceability of the law and could create excessive amounts of administrative work when all donations need to be registered in accordance with the law.

Looking Ahead:

The Wfpp will eventually merge into the new and more comprehensive Wpp. During this process, stakeholders could include relevant provisions around digital campaigning, as originally envisaged in the commitment. Stakeholders could also address issues the IRM mentioned in earlier reports such as local party subsidies and closing current loopholes (such as donating via a local foundation). For that, political support will be required. Stakeholders could use the next OGP action plan to convene relevant political actors to discuss the current law and its implications for the open government agenda.

Commitment 7: The Future of Policy Intimacy (Institute for Social Innovation)

Context and Objectives:

This commitment explored the future of 'policy intimacy', which seeks to resolve tensions for public officials around government confidentiality and public transparency and the citizen's right to information during the policy-making process. In the Netherlands, government information is in principle publicly available, unless legal grounds for exception apply. Since 1 May 2022, the Open Government Act (*Wet open overheid - Woo*) regulates access to government information. The law continues the legal practice that information which includes personal viewpoints of public officials constitutes grounds for exception, meaning such information does not have to be disclosed or can be only partially disclosed. Under the Woo, however, the government and its administrative bodies will curtail the use of this exception.¹² In response to the childcare allowance scandal in 2018, one of the main additions to the law was that, in principle, all documents containing the personal policy viewpoints of officials used for formal decision-making will become public in an anonymized fashion. Tools and approaches for policymakers that navigate how to deal with such sensitivities and dilemmas were much needed.

Against the new legal framework and strong political momentum and public demand for greater government transparency following the childcare allowance scandal, this commitment was timely. While the commitment did not envisage legislative changes, it called for consultations with government officials, academia, CSOs, and journalists to develop guidance around this critical topic. This was a first step to gradually changing the minds and approaches within public administration toward making balanced choices between confidentiality and discretion.

In the Action Plan Review, the IRM identified possible political sensitivities around the topic and recommended that collaboration with experts -both within and outside the government- could strengthen dialogue. The IRM mentioned the difficulties of changing organizational culture and suggested pooling resources with other work in the action plan (such as Commitment 5) to institutionalize meetings.

Did It Open Government? Marginal

During implementation, stakeholders achieved good levels of collaboration. The main implementing organization, the Institute for Social Innovation (IMI), started with a broader analysis around the parliamentary history of personal policy views. It then convened relevant stakeholders, including high-level officials such as advisors to the Prime Minister, Woo lawyers, the Secretary-General of the Ministry of Interior and Kingdom Relations, local government officials, journalists, and others to discuss how to balance the need for transparency with discretion and confidentiality in policy-making. This resulted in a draft report that juxtaposes different views on the topic and addresses concerns by public officials related to, for instance, the public disclosure of decision notes. Some officials were enthusiastic around these developments, whereas others expressed concern if differing opinions between public officials and ministers might become public and subject to media attention. The report also identified possible future research, particularly regarding the effects of increased transparency on the quality of official documents. According to some, more transparency may lead to lower quality because sensitive issues are no longer recorded on paper or are only expressed in vague and circumlocutory terms.

IMI and the Open State Foundation also conducted a separate study (outside the action plan) into the processing times of freedom of information requests and found that nearly 80 percent of all requests are not processed within the legal time limit.¹³ The fact the government does not meet statutory deadlines for FOIA requests received significant media attention and caused some tension between stakeholders. The point of contact to OGP mentioned that after some clarifications on their side, this was resolved, and progress continued as planned.¹⁴ This was also exhibited by the concluding meeting of the commitment where all stakeholders were represented at high levels and had fruitful discussions.

As a result of this commitment, a valuable network of Dutch experts and practitioners in access to information convened and identified steps going forward. Most importantly, they recommended developing concrete guidance in response to unclear legal provisions in the Woo and diverging interpretations on the exception grounds. Some legal scholars have called for a simplification of the relevant articles of the new law. During implementation, some government stakeholders recommended finding solutions in a more discursive approach, arguing that personal policy views are not personal expressions but are a professional opinion and should be referred to accordingly. Other identified approaches were the possibility to institute an advisory body to assist in the application of the grounds for exception, the definition of categorical exceptions, and working on better front-end selection (i.e., only those documents relevant for the administrative decision-making process).

Looking Ahead:

The work around policy intimacy is critical for achieving the cultural change that many interviewed stakeholders and external observers believe is needed. In that effort, the IRM continues to recommend broadening the stakeholder group, institutionalize its work, and ensure key institutions and government agencies are engaged, such as those in charge of information management and technical implementation of archiving requirements in the Woo. In addition, involving experts in organizational psychology is essential to change the prevalent administrative culture (which has for decades been less transparent).

Commitment 9: Contract Register in the Netherlands (Ministry of the Interior and Kingdom Relations)

Context and Objectives:

This commitment aimed to streamline the use and re-use of central government public procurement data on a new, single platform. Up to now, users needed to switch between many platforms to get an overview of upcoming opportunities with the central government. This situation is cumbersome and has not set a good open data practice. In addition, the government sought to ensure that objectives around sustainability and social responsibility are achieved through strategic procurement, especially since the 2019 cabinet strategy '*Procuring with Impact*' to which the project was linked,¹⁵ and the overlapping National Plan on Sustainable Public Procurement for 2021-2025 '*Commissioning with ambition, procuring with impact*'.¹⁶ This further necessitated the availability of central government procurement data, including contract award criteria and contract performance against environmental, social, and governance (ESG) dimensions. In addition, the platform would facilitate dialogue with interested parties around how procurement is organized on the government's online tendering system "tendered".

The platform referred to as a contract register in this commitment focused on procurement information related to so-called category management (goods and services that several ministries regularly use such as office supplies, company clothes, catering, etc.). The annual purchasing volume of the central government was about € 16 billion in 2021, and roughly 25 percent of that amount concerns category management procurement of goods and services that are, at present, divided over 22 categories.¹⁷

Did It Open Government? Marginal

This commitment led to several positive outcomes. In May 2021, the Open State Foundation carried out a study into the needs of the (re)users of central government procurement data.¹⁸ Among other things, respondents mentioned that certain critical contract information such as price and deliverables are currently unavailable, existing systems are not user-friendly, the quality of available data is not always satisfactory, and feedback mechanisms (i.e., to provide input to category procurement plans) are largely absent. The study made seven recommendations to address the identified shortcomings. The Ministry of Interior and Kingdom Relations -in coordination with the Interdepartmental Committee on Purchasing and Procurement (ICIA)- wrote an official policy paper in which it outlined its ambition to follow the recommendations, to the extent possible within the legal framework.¹⁹

The ministry commissioned an external expert to analyze the risks and benefits of applying open contracting principles to central government procurement and make recommendations for disclosing data about tenders and contracts within the limits of existing laws and regulations. In April 2022, the advisory report by a professor from the Utrecht University Centre for Public Procurement was released.²⁰ The report asserts that overestimating the need for confidentiality -and underestimating the impact of open public procurement- can be detrimental to government procurement efficiency and might explain why important data is missing or of low quality. Aside from data on unit-price, where the report recommends to not disclose such data, the report echoes broader calls for transparency and proactive disclosure of data on overall contract value and names of award criteria. The study also underscores that greater transparency in procurement will be accompanied by additional administrative needs for the government. On legal exclusion grounds, the report refers to guidance from the PIANOo (Dutch

Public Procurement Expertise Centre). This guidance stipulates that, in principle, all information must be provided, including price(s) paid and the final value of the contract (or the value of the lowest and highest bid). Deviations are only possible by exception, when publication would prevent application of the law, is contrary to the public interest, or harms the commercial interests of entrepreneurs. In its guidance, PIANOo notes that improper use of exception grounds is common, and that in principle the contract price must be included in the publication of the contract award notice.²¹ The Ministry of the Interior and Kingdom Relations wrote an official policy paper responding to this report, which at the time of writing is not yet public.

In May 2022, stakeholders organized a large conference in Amsterdam with international partners to explore how procurement can be improved using open data, technology, and stakeholder engagement. All interviewees mentioned that the conference was valuable for attendees, including the government. On 2 December 2022, the new platform was presented during a launch event with a panel discussion on the value of increased openness.²²

Implementation was delayed several months because of the COVID-19 pandemic, as well as Russia's war against Ukraine in 2022. Both led to changing priorities and additional work for the responsible ministry. In addition, interviewed stakeholders frequently opined that the introduction of the Woo meant open government work under OGP was somewhat deprioritized.

Although it is a positive step, the current platform does not represent an actual contract register and it does not currently disclose any new data on central government procurement. It also does not disclose any new contract data fields, using for example the Open Contracting Data Standard (OCDS). Instead, it has made it easier to find and access existing procurement data by linking to different portals in one place. There are unresolved questions about who is responsible for the quality and accuracy of the data submitted to the portal. It also remains unclear what kind of engagement the platform seeks to facilitate and whether it is the right place for such dialogue. Given that the procurement process is typically divided into phases, and each phase often brings different kinds of questions, a clearly stated objective about what dialogue it seeks to have (and not have) could have been helpful. The IRM considers that, in its current form, the platform is a positive, but marginal change to existing practice. Existing parallel to several other portals and platforms, it is difficult to assume that this platform will facilitate proactive engagement of stakeholders.²³

Work under this commitment was not connected to the knowledge gained through other relevant processes and institutions. It remains unclear, for example, how knowledge gained from feedback and/or questions from bidders on tendered or how jurisprudence (that is, actively shared and summarized on the PIANOo website) would feed into the portal, thereby potentially missing another important use-case for the platform.

Looking Ahead:

Based on the current progress, longer-term outcomes could be strong, provided the platform transforms into a contract register with good user engagement. As mentioned in the IRM Action Plan Review, if tendered will be phased out, it will be important that the next online tendering system adequately supports open contracting standards and needs. Moreover, linking central government procurement information to relevant court and complaints proceedings could help ensure (future) category plans are legally and strategically sound and consider existing jurisprudence and user feedback. Such information could also ensure that the government's

objectives around sustainability and social responsibility are being met. In that effort, monitoring and controlling public procurement contracts will be critical, and can be greatly supported by up-to-date data on complaints and disputes. A future iteration of the platform could offer that functionality.

In addition, the Netherlands has an extra-judicial review body for public procurement procedures since 2013.²⁴ This body frequently issues reports and non-binding opinions, such as how innovative approaches to ensure a green economy could conflict with the procurement law.²⁵ Business associations argue that this procedure did not work because its opinions have no legal power over contracting authorities.²⁶ Under an ongoing reform of the procurement act, the role of this commission will focus on complaints that arise earlier in the procurement process, particularly tender design, so that in theory, necessary adjustments could be made.²⁷ Using this reform to strengthen the feedback loop would also provide an opportunity to assure that the commission solicits civil society input.

⁹ Council of Europe, Addendum to the Second Compliance Report on the Netherlands, 15 December 2014,

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c7996>

¹⁰ Central Government, House of Representatives approves amendment of Political Party Funding Act, 12 April 2022, <https://www.rijksoverheid.nl/actueel/nieuws/2022/04/12/tweede-kamer-stemt-in-met-wijziging-wet-financiering-politieke-partijen>

¹¹ Official Gazette of the Kingdom of the Netherlands, Act of 19 October 2022 amending the Related Political Party Financing Act with the evaluation of this law, <https://www.eerstekamer.nl/9370000/1/j9vkvfj6b325az/vlxjhh6x1lyn/f=y.pdf>

¹² See [Kamerstuk 33328, nr. N | Overheid.nl > Officiële bekendmakingen \(officielebekendmakingen.nl\)](#)

See also the policy guidance on active information disclosure announced in June 2022. Among other things, the government will 'actively disclose with every document (bill, letter or memorandum) sent to parliament the underlying departmental memoranda that the ministers have used for decision-making. The cabinet no longer wants to use the ground 'personal policy views' as a substantiation of the ground for refusal 'interest of the state' from article 68 of the Constitution.

<https://open.overheid.nl/repository/ronl-8e8df185f59ab09d8438d6f0e66a72d7c2999176/1/pdf/bijlage-1-beleidslijn-actieve-openbaarmaking-notas.pdf>

¹³ Instituut Maatschappelijke Innovatie, Open State Foundation, "Ondraaglijk traag Analyse afhandeling Wob-verzoeken", January 2022, https://www.imi.nu/userfiles/imi.nu/files/Ondraaglijk_traag_280122_def2-2.pdf

¹⁴ Marieke Schenk (Ministry of the Interior and Kingdom Relations), interview by the IRM, 21 October 2022.

¹⁵ Central Government, Purchasing with impact, 28 October 2019, <https://www.rijksoverheid.nl/documenten/rapporten/2019/10/28/inkopen-met-impact>

¹⁶ Government of the Netherlands, Commissioning with ambition, procuring with impact, 29 January 2021, <https://www.government.nl/documents/publications/2021/01/29/commissioning-with-ambition-procuring-with-impact>

¹⁷ Central Government, Purchasing categories and category plans, <https://www.rijksoverheid.nl/onderwerpen/zakendoen-met-het-rijk/inkoopcategorien>

¹⁸ Open State Foundation, May 2021, <https://openstate.eu/wp-content/uploads/sites/14/2021/05/Eindrapport-Hoe-ontsluiten-we-inkoopdata-een-inventarisatie-van-de-behoefte-van-hergebruikers-Open-State-Foundation-mei-2021-1.pdf>

¹⁹ Chief Procurement Officer, December 2021, <https://open.overheid.nl/repository/ronl-87a15987-c803-4517-8bc0-52079bcfb0e7/1/pdf/Beleidsreactie%20op%20OSF-rapport.pdf>

²⁰ Utrecht University, Open public procurement data by default, 7 April 2022, <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2022/04/07/aanbevelingen-aan-het-rijk-voor-openbaar-maken-van-data-over-publieke-inkoop/Recommendations+for+making+different+types+of+public+procurement+data+available.pdf>

²¹ Pianoo, Publishing the value of contracts awarded, <https://www.pianoo.nl/nl/inkoopproces/fase-2-doorlopen-aanbestedingsprocedure/afsluiten-aanbestedingsprocedure#publicerenvandewaarde>

²² Central Government, Report launch site Doing Business with the Government (open platform government procurement), 2 December 2022, <https://www.rijksoverheid.nl/documenten/publicaties/2022/12/02/verslag-lancering-site-zakendoen-met-het-rijk>

²³ There are websites and offline fora where bidders and other interested parties such as journalists convene, including relevant subgroups (such as <https://procurement-forum.eu>). There are also business associations who facilitate dialogue with their members on (central) government procurement and who regularly interact with government procurement officers (NVO-NCW, MKB Nederland, etc.), and there are commercial players who advise interested firms on winning government contracts and provide workshops, answer questions, etc.

²⁴ The Committee of Procurement Experts (*Commissie van Aanbestedingsexperts - CvAE*) was conceived to mediate in complaints about public procurement tenders and provide advice. The commission provides non-binding advice in response to received complaints and seeks to improve the professionalism of procurement practice and facilitate learning among companies, contracting authorities, and special sector companies.

²⁵ See advice 559 on so-called rapid circular contracting, also relevant for so-called rapid impact contracting. Both approaches are local innovations by a non-profit association and seek to contribute to the ambition of government to transform the economy into a sustainable and circular economy. More information on these approaches can be found here, https://www.pianoo.nl/sites/default/files/documents/gerelateerd/fs_40-rcc_sce_explanation.pdf

²⁶ VNONCW, Filing a complaint about government tendering: pointless or not? 10 October 2019, <https://www.vnoncw.nl/forum/klacht-indienen-over-aanbesteding-overheid-zinloos-niet>

²⁷ See <https://open.overheid.nl/repository/ronl-cd5fd182f4d3bd15498afaee1af919c5a8d60705/1/pdf/aanbieding-van-de-jaarrapportage-2021-van-de-commissie-van-aanbestedingsexperts.pdf>

Section III. Participation and Co-Creation

The quality of stakeholder participation throughout the fourth action plan cycle was satisfactory, with frequent multi-stakeholder forum (MSF) meetings. Participation was inclusive and open, and witnessed new persons and organizations. At the same time, there was considerable turnover of staff at the implementing organizations during the action plan. In some cases, the government prioritizes other programs on open government over OGP, which reduces the focus on OGP.

The Ministry of the Interior and Kingdom Relations continues to oversee the Netherlands' OGP action plans. During the fourth action plan, OGP moved within the ministry, from the Democracy and Governance Directorate (D&B) to a new, government-wide program on open government. This new program primarily deals with improving information management, in response to a parliamentary inquiry into the 2018 childcare allowance scandal. This change meant that OGP was under the supervision of three different directors during implementation, leading to some lack of continuity. In addition, staff changes and interim appointments, coupled with the continued fall-out of the COVID-19 pandemic, meant that the government had to convene stakeholders online. Although stakeholders considered these meetings sufficient, the benefits of having a more informal in-person setting to discuss progress was sometimes missed. Nevertheless, the MSF continued to meet at least once every two to three months during the action plan cycle.

Generally, the level of engagement and dialogue did not significantly decline compared to previous action plans. All interviewed stakeholders told the IRM that their interactions with the point of contact were good and believed that the ministry was willing to take their viewpoints on board. The role of the MSF, whose meetings were often combined with meetings of all stakeholders working on the commitments, remained intact. Participation also extended to previously uninvolved groups, including participants from Germany and the local chapter of Transparency International. The main challenges appeared to be the combination of many different activities and responsibilities going on simultaneously, which, together with the changes in the ministry and staff turnover, made OGP a lower priority. Notably, the implementation of the Open Government Act (Woo) led to new working groups and workflows, which took attention away from the OGP action plan.

Compliance with the Minimum Requirements

The IRM assesses whether member countries met the minimum requirements under OGP's Participation and Co-Creation Standards for the purposes of procedural review. According to Netherlands Action Plan Review, Netherlands acted according to OGP process during co-creation of the action plan.²⁸ During implementation, countries are required to maintain an OGP repository and provide the public with information on implementation of the action plan. The repository must be online, updated at least once during the action plan cycle, and contain evidence of development and implementation of the action plan. Based on these requirements, the Netherlands acted according to OGP process during the implementation period.²⁹

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

Acted according to OGP process during the implementation period?	
<p>The government maintained an OGP repository that is online, updated at least once during the action plan cycle, and contains evidence of development and implementation of the action plan. The OGP webpage has seven updates between April 2021 and December 2022 on the progress of commitments in the fourth action plan.³⁰ Progress updates were provided at least every six months and contain at least one link to evidence for each commitment in the action plan, except for Commitment 13, where the last update was from December 2021. The webpage also contains evidence of the development of the action plan.³¹</p>	Green
<p>The government provided the public with information on the action plan during the implementation period. The MSF met regularly during the implementation period, and commitment holders in the government provided updates on the progress of their commitments.</p>	Green

²⁸ Open Government Partnership, Netherlands Action Plan Review 2020-2022,

<https://www.opengovpartnership.org/documents/netherlands-action-plan-review-2020-2022/>

²⁹ Please note that future IRM assessment will focus on compliance with the updated OGP Co-Creation and Participation Standards that came into effect on 1 January 2022, <https://www.opengovpartnership.org/ogp-participation-co-creation-standards/>

³⁰ See <https://www.open-overheid.nl/over-open-overheid/actieplan-open-overheid>.

³¹ See <https://archieff29.sitearchief.nl/archives/sitearchief/20220917135133/https://www.open-overheid.nl/actieplan-open-overheid-2018-2020-verslaglegging-documenten-en-nieuws/>

Section IV. Methodology and IRM Indicators

This report supports members' accountability and learning through assessment of (i) the level of completion for commitments' implementation, (ii) early results for commitments with a high level of completion identified as promising or that yielded significant results through implementation, and (iii) participation and co-creation practices throughout the action plan cycle.³² The IRM commenced the research process after the first year of implementation of the action plan with the development of a research plan, preliminary desk research, and verification of evidence provided in the country's OGP repository.³³

In 2022, OGP launched a consultation process to co-create a new strategy for 2023–2028.³⁴ The IRM will revisit its products, process, and indicators once the strategy co-creation is complete. Until then, Results Reports continue to assess the same indicators as previous IRM reports:

Completion

The IRM assesses the level of completion for each commitment in the action plan, including commitments clustered in the Action Plan Review.³⁵ The level of completion for all commitments is assessed as one of the following:

- *No evidence available*
- *Not started*
- *Limited*
- *Substantial*
- *Complete*

Did It Open Government?

The IRM assesses changes to government practices that are relevant to OGP values, as defined in the OGP Articles of Governance, under the "Did it open government?" indicator.³⁶ To assess evidence of early results, the IRM refers to commitments or clusters identified as promising in the Action Plan Review as a starting point. The IRM also takes into account commitments or clusters with a high level of completion that may not have been determined as "promising" but that, as implemented, yielded significant results. For commitments that are clustered, the assessment of "Did it open government?" is conducted at the cluster level, rather than the individual commitment level. Commitments or clusters without sufficient evidence of early results at the time of assessment are designated as "no early results to report yet." For commitments or clusters with evidence of early results, the IRM assesses "Did it open government?" as one of the following:

- *Marginal*: Some change, but minor in terms of its effect on level of openness
- *Major*: A step forward for government openness in the relevant policy area but remains limited in scope or scale
- *Outstanding*: A reform that has transformed "business as usual" in the relevant policy area by opening government

This report was prepared by the IRM in collaboration with Bart Scheffers and was reviewed by Brendan Halloran, IRM external expert. The IRM methodology, quality of IRM products and

review process is overseen by the IRM's International Experts Panel (IEP). The current IEP membership includes:

- Snjezana Bokulic
- Cesar Cruz-Rubio
- Mary Francoli
- Maha Jweid
- Rocio Moreno Lopez

The IRM interviewed representatives from the following civil society organizations for this report:

- Institute for Social Innovation
- Open Contracting Partnership
- Open State Foundation

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual³⁷ and in the Netherlands' 2020-2022 Action Plan Review. For more information, refer to the "IRM Overview" section of the OGP website, available [here](#).

³² For definitions of OGP terms, such as co-creation and promising commitments, see "OGP Glossary," <https://www.opengovpartnership.org/glossary/>

³³ The Netherlands, OGP Repository. Date accessed: 23 February 2023. <https://www.open-overheid.nl/over-open-overheid/actieplan-open-overheid>.

³⁴ See OGP, "Creating OGP's Future Together: Strategic Planning 2023–2028," <https://www.opengovpartnership.org/creating-ogps-future-together/>

³⁵ The IRM clusters commitments that share a common policy objective during the Action Plan Review process. In these instances, the IRM assesses "potential for results" and "Did it open government?" at the cluster level. The level of completion is assessed at the commitment level. For more information on how the IRM clusters commitments, see Section IV on Methodology and IRM Indicators of the Action Plan Review.

³⁶ See OGP, *Open Government Partnership Articles of Governance*, published 17 June 2019, https://www.opengovpartnership.org/wp-content/uploads/2019/06/OGP_Articles-of-Governance_2019.pdf

³⁷ Independent Reporting Mechanism, *IRM Procedures Manual, V.3*, 16 September 2017, <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

Annex I. Commitment Data³⁸

Commitment 1: Transparency in the Political Parties Act (Wpp)

- | | |
|---|--|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial | <ul style="list-style-type: none"> • Completion: Substantial • Did it open government? Major |
|---|--|

This commitment is assessed in Section II above.

Commitment 2: Transparency of the Electoral Process

- | | |
|--|---|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Substantial • Did it open government? Marginal |
|--|---|

The Senate adopted the bill 'New Procedure for Determining Election Results' on 14 June 2022, containing several amendments to the Elections Act. The most important is the introduction of a new way of determining election results. This includes the possibility of centralized vote counting, which has been experimented with since 2014, in the Elections Act. The new law entered into force on 1 January 2023. During the action plan period (since late 2019), there has been a slight improvement in the number of municipalities that meet the publication requirements compared to before the action plan.³⁹ However, there are no exact numbers available on compliance among municipalities, so the IRM considers this commitment to be substantially, rather than fully, completed. As mentioned in the IRM Action Plan Review, public trust in elections in the Netherlands is already high and this commitment represented an incremental, but positive improvement in this area.

Commitment 3: Digital Democracy

- | | |
|--|--|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal |
|--|--|

Drawing on work in the previous action plan, such as the AI-powered consensus platform Pol.is and the helpdesk and guidance materials around digital participation, stakeholders continued to engage local governments in making digital participation more inclusive and relevant. In addition, stakeholders organized a series of networking events to explore what digital democracy may look like in the future.⁴⁰ Milestones such as the three partnerships (*Provinciedeals* or 'Province deals') were completed, including one in Zuid Holland,⁴¹ one in Groningen,⁴² and one in Friesland. The open-source digital tool and Pol.is (in cooperation with

the cities of Groningen and Amsterdam, Network Democracy, and Democracy in Action) was further piloted as planned. Public conversations and consultations were conducted, including on sensitive issues such as the management of the COVID-19 pandemic. In this case, Network Democracy and Code for NL submitted the results of this Pol.is conversation to the online consultation around the bill "Temporary law on test evidence COVID-19." Finally, the existing helpdesk for digital participation was maintained and further updated. Overall, the activities from this commitment represented positive, but marginal improvements in digital participation in the Netherlands.

Commitment 4: Continuation of Open Wob

- | | |
|--|---|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Limited • Did it open government? No early results to report yet |
|--|---|

Stakeholders began developing an application programming interface (API) standard. However, due to the Woo and an upcoming assessment from the ICT Assessment Advisory Board, work on the preferred platform for the commitment, the Open Government Information Platform (PLOOI), was put on hold.⁴³

Commitment 5: Active Disclosure of Central Government Information

- | | |
|--|---|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Limited • Did it open government? No early results to report yet |
|--|---|

Similar to Commitment 4, work for this commitment was postponed due to staff changes and shifting priorities of lead stakeholders as a result of the Woo. At the same time, in June 2022, the government announced new policy guidance around active information disclosure toward parliament (see Commitment 7 under Section II). This new approach necessitates more accessible and efficient government practices in information management and archiving, which directly relates to this commitment.

Commitment 6: Plain Language Brigade

- | | |
|--|--|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal |
|--|--|

This commitment aimed to create a “Plain Language Brigade” to ensure that Dutch citizens have access to clear, digitized information about public services. All the stated objectives of this commitment were met, and the work was integrated into a wider program on better government communication. The “Plain Language Brigade” was renamed as “user central” and consists of professionals that work directly for the government.⁴⁴ A large set of tools and approaches around using plain language is available online for public officials and, according to the government, over 20,000 texts have been improved by government organizations since the launch of “user central”.⁴⁵

Commitment 7: The Future of ‘Policy Intimacy’

- | | |
|--|--|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal |
|--|--|

This commitment is assessed in Section II above.

Commitment 8: Investing in Craftsmanship of Civil Servants in Public Access and Disclosure of Information

- | | |
|---|--|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Unclear | <ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal |
|---|--|

This commitment sought to address behavioral dilemmas for civil servants that arise from the need for greater openness. It built off a commitment from the previous action plan around dilemma logic and moral deliberation.⁴⁶ The three milestones were fully completed. Stakeholders prepared extensive guidance and workshop materials for facilitators to guide so-called ‘dilemma conversations’, based on analysis conducted with external experts. The Ministry of General Affairs published the training materials in March 2023.⁴⁷ The impact of this commitment on opening government has been marginal. However, if the materials are taken up widely in the government, for example in onboarding for new civil servants, their impact could be high. For the fifth action plan, the Ministry of the Interior and Kingdom Relations plans to include the value of openness in the “Guide to Civil Service Skills” (“Gids Ambtelijk Vakmanschap”) for all government employees and to include openness in the oath of office that new civil servants must take.⁴⁸

Commitment 9: Contract Register in the Netherlands

<ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest 	<ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal
<p>This commitment is assessed in Section II above.</p>	
<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 • Potential for results: Modest 	<ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal
<p>The open data communities began operating in 2021 on data.overheid.nl.⁴⁹ The communities consist of data holders, re-users, and experts, and cover the domains of energy, education, mobility, social security, and migration. They provide a central place to discuss available data within the subject. The action plan did not specify the number of open data communities that would be created, but data.overheid.nl offers instructions on how to set up a community. The communities reportedly meet regularly. While it is difficult to determine the exact impact these communities have had on opening government, they could help users navigate existing data and access it more easily. Furthermore, they encourage interaction among government data holders and potential users, which could contribute in the long term to a culture of openness. Therefore, the IRM assesses this commitment's impact on opening government as marginal.</p>	
<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 • Potential for results: Modest 	<ul style="list-style-type: none"> • Completion: Complete • Did it open government? Marginal
<p>The "open, unless" policy states that source code should be published as open source, unless there is a legitimate reason not to (the 'unless' is specified to give governments further guidance). Because source code is government information, the Woo applies to it. Therefore, whether source code is made public must be justified on the grounds for refusal of the Woo. An assessment framework was also drawn up to help governments with open-source work, make choices regarding the most appropriate degree of "openness", and prioritize the open sourcing of the existing application landscape.⁵⁰ Finally, the Ministry of the Interior and Kingdom Relations wants to set itself as a good example in terms of open-source work. In</p>	

this regard, the ministry commissioned a report aimed at getting past the non-committal nature of “open, unless”.⁵¹ The most important recommendation from the report is to establish an open-source program office, which the ministry aims to do as a commitment in the fifth action plan.⁵²

The Ministry of the Interior and Kingdom Relations notes that this commitment has already resulted in the creation of a community where government professionals work together on open source (opensource.pleio.nl).⁵³ In addition, the source code of the DigiD app (government login service) has been published as open source.

Commitment 12: Open Algorithms

- | | |
|---|---|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? No • This commitment has been clustered as: Open Technology • Potential for results: Modest | <ul style="list-style-type: none"> • Completion: Substantial • Did it open government? Marginal |
|---|---|

Most milestones were achieved, including the publication of the Impact Assessment Human Rights and Algorithms tool.⁵⁴ This tool aims to guide discussions among policymakers and other parties on whether to develop an algorithmic government application.⁵⁵ Moreover, the government launched an online algorithm register where government agencies publish the algorithms they use.⁵⁶ As of April 2023, there are 109 algorithms on the register. The IRM was unable to verify whether work to improve procurement terms for algorithms and to develop practical guidance on the procurement of algorithms had been implemented. However, the new register has resulted in a marginal impact on opening government, as it has brought government algorithms into one place.

Commitment 13: Open data for public complaints

- | | |
|---|---|
| <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial | <ul style="list-style-type: none"> • Completion: Limited • Did it open government? No early results to report yet |
|---|---|

According to an interviewed representative of Open State Foundation, stakeholders made initial steps to define an open data standard for public complaints. However, critical work on this commitment was postponed due to unexpected setbacks. As noted for Commitment 4, the PLOOI platform (where data on public complaints was supposed to be published) is not created. This situation is unlikely to change soon given that the platform must be made suitable for broader data disclosure, as mandated by the Woo. In addition, data disclosure around complaints under the Woo now requires thousands of government agencies to disclose such information. This increased the number of agencies wanting to provide input around the data standard, causing further delays.

³⁸ Editorial notes:

1. For commitments that are clustered: The assessment of potential for results and “Did it open government?” is conducted at the cluster level, rather than the individual commitment level.
2. Commitments’ short titles may have been edited for brevity. For the complete text of commitments, please see the Netherlands’ action plan, <https://www.opengovpartnership.org/documents/netherlands-action-plan-2020-2022/>
3. For more information on the assessment of the commitments’ design, see the Netherlands’ Action Plan Review, <https://www.opengovpartnership.org/docume14etherlandsands-action-plan-review-2020-2022/>

³⁹ Marieke Schenk (Ministry of the Interior and Kingdom Relations), interview by the IRM, 21 October 2022.

⁴⁰ See also [here](#) and [here](#)

⁴¹ Lokale Democratie, Zuid-Holland launches provincial deal for digital democracy, 13 October 2020, <https://lokale-democratie.nl/news/view/80fdb4cd-37f4-46b6-8a91-79cafd40d173/zuid-holland-van-start-met-provinciedeal-digitale-democratie>

⁴² Lokale Democratie, Review of the provincial deal Digital Democracy Groningen: MOT in the participation process, 14 February 2022, <https://lokale-democratie.nl/blog/view/f6f8ac78-84d0-4bc1-84a1-0f55830df574/terugblik-provinciedeal-digitale-democratie-groningen-apk-bij-het-participatieproces>

⁴³ Marieke Schenk (Ministry of the Interior and Kingdom Relations), interview by the IRM, 21 October 2022. The PLOOI is a central government-owned platform for open government information.

⁴⁴ VNG, Clear government communication, <https://vng.nl/projecten/duidelijke-overheidscommunicatie>

⁴⁵ Central Government, One year of Direct Clear Brigade: 20,000 improved texts, 13 October 2020, <https://www.rijksoverheid.nl/actueel/nieuws/2020/10/13/een-jaar-direct-duidelijk-brigade-20.000-verbeterde-teksten>

⁴⁶ Open Government Partnership, Netherlands dilemma logic, 2018, <https://www.opengovpartnership.org/members/netherlands/commitments/NL0029/>

⁴⁷ See <https://www.open-overheid.nl/instrumenten-en-diensten/instructies/2023/2/15/handreiking-dilemmagesprekken>

⁴⁸ Information provided to the IRM by the Ministry of the Interior and Kingdom Relations during the pre-publication review of this report, 10 May 2023.

⁴⁹ Overheid.nl, Communities, <https://data.overheid.nl/datacommunities>

⁵⁰ See <https://opensource.pleio.nl/cms/view/ea49eb94-1b30-49cb-a064-66f7f33a1f8f/strategie-en-afwegingskader>

⁵¹ Ministry of the Interior and Kingdom Relations, Opensourcewerken report, 13 September 2022,

<https://open.overheid.nl/documenten/ronl-11418083f5e2244a462069137d519ef852237b3f/pdf>

⁵² Information provided to the IRM by the Ministry of the Interior and Kingdom Relations during the pre-publication review of this report, 10 May 2023.

⁵³ See <https://opensource.pleio.nl/>

⁵⁴ Central Government, Impact assessment human rights and algorithms, 31 July 2021, <https://www.rijksoverheid.nl/documenten/rapporten/2021/02/25/impact-assessment-mensenrechten-en-algoritmes>

⁵⁵ Government of the Netherlands, Impact assessment fundamental rights and algorithms, 31 March 2022, <https://www.government.nl/documents/reports/2022/03/31/impact-assessment-fundamental-rights-and-algorithms>

⁵⁶ Overheid.nl, The Algorithm register of the Dutch Government, <https://algoritmes.overheid.nl/>