

Assessment on the implementation of

“National Action Plan on Promotion of the Open Government Initiative in Azerbaijan for 2016-2018”



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Acronyms

OGI – Open Government Initiative
USAID- United States Agency for International Development
SOFAZ–State Oil Fund of the Republic of Azerbaijan
SSAPCRP–State Service for Antimonopoly Policy and Consumer Rights Protection
BA–Board of Appeal
OECD- Organization for Economic Co-operation and Development
ME- Ministry of Economy
ERC- Economic Research Centre
CAO–Code of Administrative Offences
MENR–Ministry of Ecology and Natural Resources
EMS –Electronic Monitoring System
MJ – Ministry of Justice
CS –Civil Society
NGO – Non-Governmental Organizations
GRECO - The Group of States against Corruption of Council of Europe
ACC–The Anti-Corruption Commission
MA - Ministry of Agriculture
CISMP - Centralized Information System on Mass Payments
CM – Cabinet of Ministers
MCHT - Ministry of Communications and High Technologies
NAP –National Action Plan
MF – Ministry of Finance
CB –Central Bank
ME–Ministry of Education
CA–Chamber of Accounts
EITC - The Extractive Industries Transparency Commission
SCSMP - State Committee on Standardization, Metrology and Patents

Executive Summary

In this monitoring report the status of meeting OGI principles as well as compliance with the commitments in line with the SMART, ambitious level related to the adoption and implementation of "National Action Plan on Promotion of the Open Government Initiative for 2016-2018" have been studied. It is worth mentioning that the monitoring team has explored various reports, official information on implementation of the commitments as well as monitored the websites of responsible central and local executive bodies responsible. Furthermore, desk research opportunities using internet were used. Additionally, the results describing the overall picture about the implementation of the project have been disclosed, and proposals were submitted.

The report outlines the commitments of the Second National Action Plan (NAP) that do not meet the requirements of Specific, Measurable, Relevance and Time-bound criteria during the SMART Assessment. At the same time, the gaps in the public discussion of the draft document in the process of NAP setting, restricted access to online and live discussion, lack of feedbacks, and intentional exclusion of independent NGOs were addressed during preparation of the report.

It should be noted that the level of implementation of all commitments under 11 directions of the second NAP was reviewed individually and objective assessment was conducted based on the monitoring data collected. This evaluation report is the only independent assessment reflecting the final monitoring on the implementation of all aspects of the second NAP. To date, there has not been any conducted independent annual or alternative final evaluation of the plan with exception of an official reporting of the Commission on Combating Corruption (CCC) on the implementation of the MFP. To monitor the implementation of separate directions of the NAP, the Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan has allocated 619 800 AZN to 83 projects in the last 2,5 years.

The Monitoring results have revealed a low implementation level, including the facts on negligence of two ambitious commitments (Adoption of Declaration Rules on the Competition Code and Officers' Revenue), deterioration of the access to information status, low accountability in spending the state finances and lack of transparency in public procurement process. Besides, restrictions on the activities of Civil Society (CS) have not been eliminated, independent NGOs were not involved in the monitoring of the implementation of the plan, and establishment of public councils has almost stopped. The only positive outcome was regularity in the process of providing e-qanun.az and huquqiaktlar.gov.az websites with normative-legal acts.

According to the results of the monitoring, the following issues have been covered in the proposals: 1) An approval of staff and allocation of funds by the Ministry of Finance for the establishment of Information Department at the Office of the Commissioner for Human Rights (Ombudsman).; 2) establishment of a mechanism giving the right to initiate public councils from state bodies to CSs and setting the deadline for this issue; 3) preparation of specific standards for accountability of state bodies, toughening requirements for placing reports on internet resources; 4) ensuring the participation of independent civil society in discussions of state budget project in the Parliament; 5) increasing the coverage of periodic quarterly data related to the budget execution; and 6) public discussions of the rules on providing Officers' financial information and Competition Code.

Introduction

Azerbaijan is one of the 70 participating countries at the Open Government Initiative (OGI) proclaimed at the 66th meeting of the UN General Assembly, on September 20, 2011. By joining this initiative, our country has expressed its intention to improve its activities in promoting open government and enhancing transparency, contributing to the exchange of experience in this area and consolidate international efforts. According to the order of the President of the Republic of Azerbaijan on September 5, 2012, "National Action Plan on Promotion of the Open Government Initiative for 2012-2015" and "National Action Plan for 2012-2015 on Combating Corruption" have been confirmed.

The decree ensured the continuity of the activities carried out within the framework of "National Strategy for Increasing Transparency and Corruption ", improvement of the normative legal base and institutional mechanisms in this area, compliance of the activities of state and local self-government bodies with open government principles, expansion of public participation in decision-making and increase of transparency. Furthermore, it was emphasized, that the decree has been signed to ensure the fulfilment of international commitments of the Republic of Azerbaijan in this area.

The 2nd NAP on OGI - "National Action Plan on Promotion of the Open Government Initiative for 2016-2018" has been approved by the Decree of the President of the Republic of Azerbaijan on April 28, 2016, with a delay of 4 months. Unlike the first plan, the second NAP has also taken measures to combat corruption, for this reason so the scope of the document is bigger.

If the first consisted of 9 main directions (paragraphs) and 37 sub-directions (commitments), the last NAP includes 11 main directions (paragraphs) and 60 sub-directions (commitments). The commitments provided in the last NAP on 7 directions are those determined in the previous document. Present NAP, compared with the preceding one, includes four new commitments.

The activities of NGOs in Azerbaijan have been entirely restricted, representatives of this sector have been persecuted given to the fact that representation, and participation of all stakeholders, including civil society institutions were not provided in the preparation and consultation of the document. Similarly, the Steering Committee took decision to declare Azerbaijan as a non-active member of OGI at the OGI meeting held on 4 May 2016 in Cape Town, South Africa.

This decision has been made in accordance with the Responsible Guidelines approved by the Steering Committee in 2014, based on the recommendations of the Subcommittee on Criteria and Standards.

In September 2017, the OGI Steering Committee assessed the implementation of the requirements announced on the Government of Azerbaijan; prolonged country's non-active membership at OGI for no serious change demonstrated and announced its new requirements for the government of Azerbaijan.

By the end of 2019, decision on the status of Azerbaijan will be made after more revision.

1. An evaluation of adoption of "National Action Plan on Promotion of the Open Government Initiative for 2016-2018" in compliance with OGP principles and the SMART

The development of the second NAP is coinciding with a critical period of weakening of civil society and crackdown on independent non-governmental organizations (NGO). Since the beginning of 2014, the government has launched serious legislative restrictions in relation to the activities of civil society in the country¹, and increased groundless inspections at NGOs as if transparency and accountability are weak in this sector². Additionally, several leading civil society heads and representatives were arrested, persecuted as well as the rules on registration and grants of foreign donors were toughened³.

Given to this sensitive period, the discussion over "National Action Plan on Promotion of the Open Government Initiative for 2016-2018" was occurred with 4 months' delay. In the process of development of the second NAP, the date for consultations was first disclosed on March 14, 2016 as opposed to 4 weeks in advance, initially set date on 1 July 2015. It should be noted that the information was delivered to participants only via two sources (e-mail and telephone calls). Despite the fact that the ACC that is responsible for this process posted information on consultations at its official website, however, it did not reveal any information on comment or complaints related to consultations as well as did not specify to whom and where they were addressed⁴.

In the pre-stage period on the consultations related to the second NAP, the summary information (online and live coverage) was not realized, and the civil society representatives operating in Baku were partially involved in the consultations process. As coming to the representatives in the regions, they were completely side-lined from the process and media was not engaged in as well. Additionally, public awareness campaigns (interviews, webinars, and others) of responsible persons involved in preparation of the NAP was not organized.

In general, it is worth highlighting not all stakeholders were involved in awareness raising and consultations process about the second NAP project. Similarly, their opinions and proposals were not considered either. Due to the fact that very little information was posted at the internet resources of the ACC as there was not any separate internet webpage on OGP, the requirements of the main committee of the OGP on accessibility and comprehensiveness were not met⁵.

Given to the fact that the ACC was not interested on retrieving opinions and proposals from civil society representatives, feeding back to those who submitted proposals about the process

¹<http://e-qanun.gov.az/framework/5403>, <http://e-qanun.gov.az/framework/511>, <http://www.e-qanun.az/framework/30212>.

²<http://e-qanun.az/framework/32061>

³<http://www.e-qanun.az/framework/31488>

⁴http://www.erc.az/files/Report_NAP_OGP_06_01_2017_ENG.pdf

⁵<http://commission-anticorruption.gov.az/view.php?lang=az&menu=49>

was not ensured. Moreover, the data on processing of proposals and opinions, and adoption or rejections was not revealed.

Based on comparisons it can be concluded that the second NAP compared to the first one is less ambitious, and the main reason is that majority of commitments is the continuation of the liabilities set in previous plan that are either not implemented, partially executed or their implementation were not fully terminated. The first plan contains 9 main directions (paragraphs) and 37 sub-directions (commitments), whereas the last NAP is comprised of main direction (paragraph) and 60 sub-directions (commitments). One of the main reasons of increased volume of the second NAP is combination of the National Action Plan on Combat Against Corruption with NAP on OGP.

It is worth mentioning that the commitments on seven directions within the latest NAP is the ones identified in the previous document. In the current NAP, four new directions were determined compared to the previous one. One of the factors influenced to making the second NAP less ambitious is non-compliance with OGP principles or its less compatibility along lack of commitments addressing to improve transparency, accountability and public participation in the NAP.

The key feature making the NAP ambitious is that this document was produced and implemented in close collaboration with civil society. Moreover, this enabled studying the requirements and international best practices related to the NAP. At the same time, it is necessary for government to be ambitious on development of the NAP, identification of the fields suffering from transparency and accountability as well as involving relevant central executive committee agencies⁶. In addition to this, cooperation with working groups dealing with OGP areas should be built, and furthermore, consultations with an aim to define commitments that are more ambitious should be conducted.

One of the main objectives is to focus on whether the commitments indicated within the second NAP is in line with the SMART (Specific, Measurable, Answerable, Relevant, and Time-bound).

Specific: It is necessary that commitments are fully addressing to existing problems, targeted activities and specifies anticipated outcomes. Although these requirements are met on some commitments, however, in some of them neither commitments nor indicators are explained in clear manner. For example, “Development of proposals on creating enabling environment for activities of non-governmental organizations” (4.1.2). One of the main indicators in here is shown as “Proposal package”. The names of the commitments is over-generalized, and activities and expected outcomes are not clearly depicted. If the NAP referred very clearly and specifically to "Registration of local and foreign NGOs, simplification of grants and their registration procedures”, then this would have been more relevant for OGP principles. Therefore, the expression formulated as “The proposals on development of creating enabling environment for activities of non-governmental organizations” can be interpreted with various meaning, and it is possible to “justify” the fulfillment of the commitment. One of the main factors that requires to pay close attention is a problem that needs to be resolved as well as obtaining targets. However, it should be emphasized that it is impossible to find an answer to the questions “which problem

⁶The relevant areas are transparency and accountability, required financial resources, natural resources, justice fields, sectors providing public services, anticorruption and access to information

related to the activities of non-governmental organizations will be resolved and which targets will be reached” under this direction of the NAP.

Measurable. Implementation of commitments should be characterized or in fact endorsed through specific measurable indicators. If a commitment is addressing to a wide range of issues, it should be divided into sub-paragraphs in order to check its measurability and description in a clear way.

The progress has been recorded on determination of indicators, which confirm the implementation of commitment in the second NAP. However, these statements about the indicators cannot be applied to the NAP as a whole. Indicators for some activities are not specific and cannot be deemed sufficient for measuring the implementation of commitment. The indicator under paragraph 2.1 of the Plan on the commitment of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan" in regard to the law of the Republic of Azerbaijan on "About obtaining information" that sets out requirements to strengthen control over the fulfillment of the tasks is as follows: " Information about supplied resources and executed enforcement measures."

The key argument in relation to the certain points concerning the indicators defined in the second NAP is that it is sometimes impossible to find facts confirming the execution of obligations.

It should be noted that indicators in the face of photo-video facts, official press-releases, and documents confirming attendances covering "Implemented events", "Number of persons involved in trainings and seminars", "Number of organized lectures and events ", including "Information on prepared and distributed campaign materials", "Conduction of trainings for responsible persons", "Implemented awareness raising campaigns", " Implemented public awareness raising events and presentations" topics could not be obtained.

Answerable. According to the principles of the OGP, it is obligatory to indicate the leading (that coordinates activities) body responsible for the commitments, if necessary, a partner from a civil society or a private sector as well. In the second NAP compared with initial plan sometimes the names of the recommended organizations are shown along with an agency responsible for implementation of an activity. However, except for the national associations of municipalities and municipalities, all of the remaining organizations recommended during the implementation of their commitments were government agencies. In other words, the involvement of any organization, platform or association from the civil society and the private sector is not envisaged.

Relevant: The commitments under the NAP should comply with one or more of the OGP principles (accountability, transparency, public participation, technology and innovation). It seems that some activities in the second NAP do not comply with these principles. Particularly, the commitment for electronic services has been over-stated. In general, while we review the list of commitments in relation to e-services it can be observed that some of them are aimed at strengthening control rather than the transparency and accountability principles. In fact, the first sub-paragraph (Integration of new services into the "E-government" portal) fully describes the essence of the activities envisaged in paragraph 1 of the NAP (Improvement of electronic services). The commitments mentioned in the following sub-paragraphs are the outcomes of the implementation of this obligation: Ensuring the reduction of the number of official documents and references requested by the public authorities in the application of e-services, the formation

of information systems of higher education institutions, obtaining electronic certificates and documents for students, and payment of tuition fees in electronic form, establishment of electronic services for preschool education institutions and so on.

Time-bound. Apart from the completion of the mandatory commitments in the NAPs on OGP, the timing of the implementation of commitment by stages must be clearly specified in stages. Although the second NAP covers the 2016-2018 years and sometimes a specific date on the implementation of commitments in the NAP (ex: 2016 or 2017 or 2018) was shown, however; in most cases the period over a year has been set (ex: 2016-2017 and or 2016-2018). Therefore, the decree of the President of the Republic of Azerbaijan on approval of "National Action Plan on Promotion of the Open Government for 2016-2018" tasks the central and local executive bodies to accept annual work plans for implementation of the Action Plan and submit information about this to the Anti-Corruption Commission of the Republic of Azerbaijan via electronic means⁷.

Most central and local executive authorities do not post their work plans on their official internet pages, and they are even refusing to submit a business plan while submitting an official enquiries. Some central executive authorities (CEA) produce the part of their commitments solicited from "National Action Plan for the Promotion of the Open Government for 2016-2018" in table format under the guise of work plan and post on their respective websites⁸. It should be noted that the government agencies, such as the Ministry of Economy and the Ministry of Taxes, who properly formulate the business plan and group them according to their performance history, are good examples⁹.

⁷ Article 2.2

⁸ <http://smp.gov.az/content/uploads/employees/“Açıq%20Hökumətin%20təşviqinə%20dair%202016-2018-ci%20illər%20üçün%20Milli%20Fəaliyyət%20Planı”nın%20Azərbaycan%20Respublikasının%20%20Standartlaşdırma%20Metrologiya%20və%20Patent%20üzrə%20Dövlət%20Komitəsində%20icrası%20üzrə%20illik%20iş%20planı.pdf>

⁹ <https://economy.gov.az/uploads/fm/files/hesabatlar/F-12ciq-hokumet.pdf>,
<http://www.taxes.gov.az/uploads/gorushler/4d13ab26654ac0805e036bb8e27a9c72.xlsx>

2. Assessment the level of civil society involvement in the evaluation of implementation of the second NAP implementation

The decree of the President of the Republic of Azerbaijan on approval of the "National Action Plan for the Promotion of the Open Government for 2016-2018" contains recommendations for ACC on carrying out measures with an aim to involve civil society institutions in the process of evaluating the implementation of the Action Plan as well as regularly update the public in regard to the implementation of that plan.

At the same time, paragraph 4.1.3 of the second NAP stipulates the establishment and support of the "Open Government Partnership" civil society platform. It is worth mentioning that institutions responsible for the implementation of this commitment are the Council on State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan, central and local executive authorities, and the recommended agency is the ACC. The experiences of OGP shows that platforms for dialogue on a permanent basis are considered as an important tool for establishing an understanding and trust among parties, including sharing experiences and overseeing monitoring processes.

The above mentioned factors were not considered when the OGP platform was created in Azerbaijan, and a dialogue platform was established on 9 September 2016 with representatives of government and the list of representatives provided by pro-governmental civil society organizations. An official statement has stated that the Government-Civil Society Dialogue Platform on the Promotion of the Open Government was established with the involvement of 31 NGO representatives and nine state bodies as well as parliamentarians¹⁰. There was no legal document regulating the activities of the Dialogue Platform when it was founded. Afterwards, the statute of the body was adopted at the meeting of the Platform dating back to January 18, 2017. However, the statutory document, which is the sole legal document, does not specify the rules on the formation of the Steering body of the Platform and its head (board, coordinator) as well as of the Inspection Group that fulfils control over financial activities of the Platform. Besides, its registered address was shown as dots highlighted in yellow colour¹¹.

¹⁰ <http://ogp.org.az/az/index.php/uzvler/>

¹¹ http://ogp.org.az/az/wp-content/uploads/2017/03/Platformanin_Esasnamesi_Son_variant-2.pdf

There has not been any CSO or CSO coalition that conducts monitoring on the implementation of the second NAP commitments in Azerbaijan. Despite the fact that the Council on State Support to NGOs has allocated 619 800 manat funding for 83 projects within the frames of "National Action Plan on promotion of open government in 2016-2018" over the past three years, however, there has not been even 1 outstanding alternative monitoring in relation to the implementation of commitments in NAP.

3. An evaluation of implementation of commitments within the "National Action Plan on promotion of open government in 2016-2018"

Given to considering events related to the combat against corruption in the second National Action Plan, the document contains 11 main directions and commitments under 60 sub-directions. According to the legislation, the CoB and the ACC should periodically analyze the current state of activities regarding fulfillment of the Action Plan and report to the President of the Republic of Azerbaijan.

1. Improvement of electronic services

This direction addresses to commitments under 8 sub-paragraphs. The main reason that the OGP attaches great importance to the introduction of electronic services is to ensure principles such as transparency and accountability for Open Government. Nevertheless, the activities related to electronic services were deliberately over-stated in the second NAP. It should be noted that an integration of new services into the "E-government" portal, improving the mobile interface, mobile application and payment opportunities of the "E-government" portal constitute the basis of the activities envisaged by the second NAP on improving electronic services.

The information¹² on "Activities implemented in 2017" in relation to the implementation of "National Action Plan on promotion of Open Government in 2016-2018" disclosed by the ACC highlights the following activities that have been carried out to implement this item:

The number agencies integrated into "Electronic government" portal has reached 91, 15 new electronic services of the central executive bodies have been integrated into the "Electronic government" portal, 2 new electronic certificates have been included into the electronic references presented to citizens. Thus, the number of total electronic services has reached to 437 (four hundred thirty seven). In 2017, mobile versions of "IOS" and "Android" operating systems of "Electronic government" portal have been produced and put into operation. However, users of mobile devices are able to use 25 electronic services with over 11 mobile versions of the portal.

The formation of information systems of higher education institutions, obtaining of reference books and documents given to students in electronic format, and ensuring electronic payment of

¹² <http://commission-anticorruption.gov.az/view.php?lang=az&menu=49>

tuition fees were carried out via different electronic systems at higher educational institutions in Baku and Sumgait.

These are the implementation of less important commitments in terms of the OGP principles which are expected to be implemented, according to the ACC, by 2018: creation of electronic services for admission of children at preschool education institutions, expansion the coverage of electronic document in regard to the enrolments for general education schools, lyceums and gymnasiums. The direction shown in the next sub-paragraph - ensuring the reduction of the number of official documents and references required by state agencies in connection with the application of electronic services is a result of a commitment - is more result-oriented rather than a commitment.

If the subject matter is the integration of new services into electronic system and the improvement of e-services, then, of course, there will be a logical decrease in the number of documents required by state agencies.

It can be unequivocally stated that the fulfillment of the commitment on ensuring the realization of local (municipal) taxes and payments through the Centralized Payment Information System on Lump Payments of the Central Bank of the Republic of Azerbaijan (CPISLP) and electronic terminals was not possible. Because most of the municipalities in our country do not have the opportunity to create a web page, and therefore, it seems unfair and unrealistic to demand from them (except for Baku, Sumgayit and Ganja municipalities with relatively sustainable financial status) to implement a large financial capacity action like joining to the CPISLP of Central Bank CPSU.

The State Services Portal was created during the implementation of second NAP. The types of services provided by 79 LEC agencies in this portal are shown separately for each LEC.¹³ The services provided by LEC agencies in the Portal are vary. The minimum provided services by LEC accounts to 7, and the maximum number of services given by LEC agencies reach up to 40. The LEC agencies providing between 30-40 types of services in the Portal constitute in the end 68%. The remaining 31 LEC agencies are providing in the range of 15-29 services, and this makes up 31% of LEC agencies within the portal. It should be noted that the Portal contains broad information on each service. Information like whether the service is either paid or free, its level of electronic system, and whether it is accessible through "Asan" service centers.

2. Ensuring access to information

This direction contains 5 commitments. The most important direction across all commitments is the one on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan" in relation to the law of the Republic of Azerbaijan on "About obtaining information" that sets out requirements to strengthen control over the fulfillment of the tasks, which was considered in the first NAP, but never carried out. The fact of the matter in here is that the relevant section of the Ombudsman's Apparatus is being established with an aim to control the implementation of the requirements of the Law of the Republic of Azerbaijan "On access to information".

Since 2013, it was reported that trainings for employees of this section, although no section was

¹³ <http://dxr.az/dovlet-orqanlari#!>

established and its employee structure was not approved, were conducted annually, and information of such kind was incorporated into the annual reports of the ACC.¹⁴ It should be emphasized that the relevant website (<http://www.ombudsman.gov.az/az/>) of the Human Rights Commissioner addresses to the MFP only in the Annual Reports of the Ombudsman and the same sentences on the creation of the department have had been repeated in the last five years: "The Commissioner has appealed to the Cabinet of Ministers and the Ministry of Finance with a request to allocate funding for the improvement of the structure of the Ombudsman in order to take measures to strengthen the oversight capabilities of the Commissioner in fulfilling his obligations arising from the requirements of the Law of the Republic of Azerbaijan."

Interestingly, the second commitment in this direction is dubbed as "Creation of Legal Assistance Mechanisms on Access to Information, Implementation of specialized trainings and awareness raising measures" and the responsible body for this activity is still Commissioner for Human Rights. Additionally, an indicator to measure this activity was expressed generally as "Established legal aid mechanisms, conducted trainings and the number of awareness raising events".

The next commitment in this direction is the creation of a unified database of legal document management in regard to apartments in residential buildings, which are either being constructed or not constructed and not commissioned. Additionally, it seeks to carry out measures on improving the mechanisms for early registration of real estate out in 2016-2017. However, the relevant amendments were made only to the Civil Code, but the planned mechanism has not been established yet.

The next commitment in this direction was the preparation and launch of mobile versions of local and central executive bodies web pages.

It is worth highlighting that the report disclosed by the ACC in regard to the last commitment of this direction - which is carrying out the activities in improving "161 hotline" services of the Chief of the Anti-Corruption Department under the General Prosecutor Office of the Republic of Azerbaijan, and the publication of statistical and analytical data - is quite compelling. In addition, 1 prosecutor and 2 consultants were added to the activities in 2017 and this was presented as an action to improve the activities of the Hot Line contact center in order to record statistical and analytical data.

3.Improvement the activities of unified internet electronic database of normative legal acts

Regular renewal and ensuring uninterrupted performance of the single electronic internet database (www.e-qanun.az) and the State Registry of Legal Acts (www.huquqiaktlar.gov.az) is a continuation of the activities envisaged by the first MFP, and the creation of the mobile version of both pages has been completed in the planned period

4. Expansion of activities of members of civil society and increasing public participation

Under this heading, specific commitments are being considered to produce proposals for the creation of enabling environment for activities of non-governmental organizations, as well as to expand public participation. However, the commitments were not implemented on either

¹⁴ "Information on the Commission on Combating Corruption in 2017 related to the implementation of the National Action Plan for the Promotion of the Open Government for 2016-2018

direction and only it was limited with carrying out the cosmetic changes.

In September 2017, the OGP Steering Committee extended the in active status of Azerbaijan in the OGP for one year and it has set specific requirements before the government to simplify the conditions for the activities of local and foreign NGOs. The requirements included the followings: facilitating the establishment and registration of NGOs (online registration and online registration of changes in founding documents etc.), cancellation of the requirement for a single extract from the state registry (this is essentially accounts as re-registration of NGOs), the Code of Administrative Offenses (CAO) to eliminate tough financial sanctions applied to local and foreign NGOs, to simplify the grant registration procedures, to simplify conditions on allocating grants in relation to foreign donors (altering the obligation to receive a grant under each grant agreement, freeing donors from commitments on access to each grant agreement under the bilateral and multilateral agreements, and so on). However, there has not been any changes recorded in terms of fulfillment of requirements dating back to December 01, 2018.

After the adoption of the second MFP, a Working Group was set up with the involvement of the Presidential Administration, the NGO Council, the Ministry of Justice and the Open Government Platform, which regulates the activities of NGOs, allocates grants, and reviews the legislation on the right of foreign donors giving grants, and the experts of Open Government Platform and prepare proposals. Based on these proposals, there have been some cosmetic changes made to the Rules on "Registration of Grant agreements(decisions)" and "The rights on allocating grants in the territory of the Republic of Azerbaijan" by CoM on January 11, 2017 and January 24, 2017 respectively.

A confusing letter on the establishment of a favorable situation for NGOs and foreign donors in the country was signed on 22 September 2018 with signatures of the Country Coordinator for OGP (OGP Focal Point) and the Executive Secretary of the ACC Kamal Jafarov, including the Coordinator of the Open Government Platform Alimammad Nuriyev and submitted to the members of the OGP Criteria and Standard Subcommittee members¹⁵. The main aim was to create a faulty impression about NGO activities in the country amid disclosure of decision in regard to Azerbaijan.

At the moment, the right of allocating grants on the territory of the Republic of Azerbaijan by foreign donors according to the "Rules of obtaining grants on the territory of the Republic of Azerbaijan by foreign donors" ¹⁶, approved by the decree # 339 on October 22, 2015, should be obtained by foreign donors in the territory of the Republic of Azerbaijan based on each grant agreement. The Ministry of Finance (MoF) is required to provide a financial and economic feasibility report in order to obtain a right for grant allocation.

The registration of grant agreements signed by the foreign donors who acquired the right to issue grants of grant agreements (resolutions) is carried out by the #216 decree dating back to 5 June of 2016 of the CoM under the "Rules for Registration of Grant Agreements (Decisions)" ¹⁷.

Starting from the beginning of 2014, the policy of imposing restrictions over foreign and local NGOs activities has been gradually implemented.

¹⁵ https://www.opengovpartnership.org/sites/default/files/Azerbaijan_Letter_20180922.pdf

¹⁶ <http://e-qanun.az/framework/31488>

¹⁷ <http://www.e-qanun.az/framework/30212>

The Law of the Republic of Azerbaijan "On Non-Governmental Organizations (Public Associations and Foundations)" ¹⁸dated back to December 17, 2013, No. 849-IVQD contains reactionary 30-1 article dubbed as "Studying the activities of non-governmental organizations, branches or representative offices of non-governmental organizations of foreign states in compliance with their statutes (regulations) and legislation of the Republic of Azerbaijan". Later on 28 December 2015, the Rules¹⁹ on "Studying the activities of non-governmental organizations, branches or representative offices of non-governmental organizations of foreign states in compliance with their statutes (regulations) and legislation of the Republic of Azerbaijan" was approved.

Furthermore, demanding from NGOs to have state registry extract every 2 years is also unreasonable in the legislation. It should be mentioned that there is also no such requirement in the "Rules for the State Registration of Non-Commercial Organizations", approved with resolution No 2-N dated March 19, 2012 of the Collegium of the Ministry of Justice and the Law of the Republic of Azerbaijan and on "State Registration of legal persons and about state registry ". ²⁰ There is a requirement in the law that only "any change made in the founding documents of non-commercial organizations, as well as any subsequent changes in registered facts" must be registered.

As coming to the penalties, new penalties approved with the Code of Administrative Offences (CAO) of Law of the Republic of Azerbaijan on December 29, 2015, No. 96-VQ, are high penalties for local and foreign NGOs. ²¹ Moreover, articles 432, 579, 580, 581, 582 and 598 of the Criminal Code establish high penalties for local and foreign NGOs. Detailed information was provided about the commitment on creation of "open government partnership" civil society platform and support their activities in the section called " Evaluation

There was a commitment determined with an aim to develop public oversight mechanisms for protection of consumer rights, enhancing public participation in organizing, strengthening and sustaining the activities of public councils in the second MFP, creating separate sections on official web resources related to the composition and activities of public councils, and regular update of information and implementing awareness-raising activities. In addition to this, monitoring conducted at the official websites of 80 LEC has revealed that the activities related to the establishment of public councils are almost never carried out. There were public councils only in 3 LEC agencies involved to the monitoring: Binagadi, Qaradag and Shaki.

During the monitoring period there has been no significant change in the activities of the Public Councils operating in the country, as well as in the establishment of public councils under CEC agencies. There were only 7 operational public councils of CEC agencies involved in the monitoring. It should be noted that information on selected members of public councils under the State Migration Service, the Ministry of Youth and Sport, the State Committee on Family, Women and Children Affairs, the Ministry of Ecology and Natural Resources, the Ministry of Justice, the Ministry of Labor and Social Protection, and the State Agency for Citizen Service

¹⁸ <http://e-qanun.az/framework/511>

¹⁹ <http://e-qanun.az/framework/32061>

²⁰ <http://www.e-qanun.az/framework/23445>

²¹ <http://e-qanun.az/code/24>

and Social Innovations has been posted on internet pages. Similarly, most of these councils are the ones established during the previous NAP period or even before it.

Moreover, although the ACC report provides information on awareness-raising campaigns carried out with an aim to protect consumer rights, and further provides information on "hot line", it does not talk about public control mechanisms on protection of consumer rights which is the main focus of the activities under the commitment.

5. Ensuring financial transparency

The CoA which is responsible for the improvement of information technology and electronic control in the implementation of financial control has designed specific electronic software for the application of electronic control in the allocation of wages funded by the state-funded organizations. At the same time, risk management system - Risk Management tool was created to improve the quality of tax control and ensure transparency in oversight activities, allowing for automatic processing, classification, analysis and grouping of taxpayers on risk criteria.

Most of the commitments in this direction are related to the control over the expenditure of the state budget and its resources. According to Article 13 of the Law of the Republic of Azerbaijan "On Budget System", the draft law on the state budget for the next budget year, together with other documents attached to it, shall be submitted no later than October 15 of the current year in accordance to Article 109 (2) of the Constitution of the Republic of Azerbaijan for discussion and approval of the Parliament. As a rule, the submission of the budget envelope to the parliament gets delivered to the Parliament with a month delay and sometimes more, and is usually discussed at the three plenary sessions.

Ensuring the participation of independent civil society in budget discussions is still remaining unfulfilled. According to the results of poll conducted by the Open Government Platform without representation of independent NGOs across 7 committees of the Parliament, in 2013, 12 NGO representatives have joined to the discussion of draft budget for 2013-2016, and 3 in 2014, 4 in 2015 and 2016 respectively making a total of 23 NGOs²². These NGOs represented did not represent the independent civil society, but the committee chairs and the circles close to the leadership of Parliament.

Quarterly, 6-month, 9-month and yearly information on state budget implementation are posted on the official website of Parliament²³. However, this information usually takes up to 1 page size and reflects generalized indicators. Although the menu title is "analysis of implementation of budget revenues and expenditure section", it is not possible to make any analysis based on the information provided. It would be better to set up specific standards for the form and content of the report and to prepare budget related information and expenditures based on these criteria.

It should be mentioned that CoA posts its opinions on the annual execution of state budget and draft budget of next year on its official website. Furthermore, regularly informs the public about the financial control measures taken by the budgetary organizations. The controlling stock contains problems with publishing information on the annual financial activities of state-

²² http://edf.az/ts_general/azl/layihe/OGPP/downloads/dovlet-budcesi-vetendash-cemiyeti_ ceyhun-musaoglu.pdf

²³ <http://maliyye.gov.az/static/105/dovlet-budcesinin-icrasina-dair-operativ-melumat>

owned and legal entities owned by the state, including the use of funds allocated from the state budget or the use of property given to them, and the placement of information on government procurement by budget organizations.

There are problems related to the following fields: annual financial activities of budgetary organizations as well as legal persons of the controlling stock envelope which belong to state; publication of information related to funds allocated from the state budget or properties as well as publication of information in relation to public procurements by budgetary entities. Moreover, the results of audit and controlling measures conducted by the CoA is confirming these problems.²⁴

As a result of the monitoring conducted during reporting period, it was revealed that only one out of the 80 LEC agencies posted information about the public procurement on its website: Nizami region Executive Power of Baku city²⁵. During the monitoring, it was found out that although the authorities did not post public procurement information on their web resources, some of them posted on the tender.gov.az website, which was published by the State Service for Antimonopoly Policy and Consumer Rights Protection under the Ministry of Economy of the Republic of Azerbaijan. The monitoring has recorded eight CEC agencies publishing reports about the public procurement on their websites. The State Statistical Committee (SSC), the Ministry of Agriculture (MoA), the Ministry of Education (MoE), the State Customs Committee (SCC), the Ministry of Ecology and Natural Resources (MENR), Ministry of Justice, Ministry of Economy, Ministry of Transport, Communications and High Technologies (MTCHT). It should be highlighted that only SSC, SCC and MTCHT have created systematic section in regard to the procurements.

One sentence written in regard to the implementation of this paragraph in the 2017 report of the ACC does not correspond with findings of the monitoring group and it reflects general information without being specific: "During the reporting period, the publication of data in regard to public procurements by budgetary organizations has been published at the www.tender.gov.az website " .

6. In the field of activities of local self governance bodies

This direction considers execution of 2 commitments: ensuring transparency in the admission to municipal service process and raising awareness on ethical conduct rules of municipality servants as well as increasing their professionalism. The first commitment is seeking to make arrangements for municipality service, composition of competition commissions, available vacancies, results of the admission and other information on municipal service on the websites of municipalities and create a centralized electronic resource. Neither of the requirements were fulfilled. There is a very simple reason why relevant information cannot be posted on municipal websites - more than 90% of municipalities do not have official websites.

When the Law of the Republic of Azerbaijan "On Access to Information" was adopted in

²⁴ <http://sai.gov.az/1/tedbirlerlist/>

²⁵ <http://www.nizami-ih.gov.az/page/99.html>

2005, it was envisaged that municipalities should create their own Internet resources no later than 3 years²⁶. Despite the fact that already more than 10 years passed since the set deadline, it is still remaining unresolved. However, it is unclear why there is not a single municipality internet resources.

As coming to the second commitment, it was planned to conduct ethical behavioral rules for municipality servants, including trainings on legal knowledge and skills, preparation of relevant explanatory information and guidelines, and posting this information on their respective websites. At the same time, it was aiming to adopt ethical behavioral norms of municipality members. All of the commitments have been fulfilled²⁷, but as we mentioned earlier they do not match with the OGP principles.

7. Increasing transparency in production field

The commitments in this direction were also reflected in the previous NAP and were one of the best-implemented directions, according to independent monitoring conductors²⁸. However, the restriction of the capacity of civil society in the country since the beginning of 2014 has downgraded the status of Azerbaijan (2003), one of the first to join this initiative, from 'compliant' to 'candidate' to country in 2015 and later, it was delisted from the organization in 2017.

Immediately after the withdrawal, on April 5, 2017 the President of the Republic of Azerbaijan signed a Decree "On additional measures to increase accountability and transparency in the extractive industries". According to the Decree, "the Extractive Industries Transparency Commission" was established and Mr. Shahmar Movsumov, the Executive director of the State Oil Fund of the Republic of Azerbaijan was appointed as the Chairman of the Commission²⁹. The Statute of the Extractive Industries Transparency Commission of the Republic of Azerbaijan has been approved by Decision No. 252 of the CoM on June 6, 2018³⁰. Following this date, the Commission continues to operate separately from the international initiative.

The 2017 report of the ACC on implementation of the NAP says the following: "During the reporting period 5 meetings were held with the participation of civil society organizations, local and foreign extractive companies and representatives of international organizations. In addition, the Commission also held 2 meetings separately with representatives of civil society organizations and heads of local and foreign extractive companies operating in Azerbaijan and signed an agreement on cooperation. All domestic and foreign extractive companies signed the agreement and joined EITI process and participated in the reporting process. At the same time, representatives of civil society organizations, independent experts and representatives of the private sector have been involved in all stages of accountability."

It should be noted that, unlike the previous coalition, civil society in the EITI Commission is represented only as an observer, they are no longer party to it.

²⁶ http://www.e-qanun.az/alpdata/framework/data/11/c_f_11142.htm

²⁷ <http://www.justice.gov.az/?view=cat&id=63>

²⁸ http://www.erc.az/files/Report_NAP_OGP_06_01_2017_ENG.pdf

²⁹ http://www.oilfund.az/az_AZ/huequqi-senedler/diger-senedler/sahdeniz-qaz-kondensat-yataginin-istismarinin-ikinci-merhelesi-ve-cenub-qaz-dehlizinin-yaradilmasina-dair-diger-layihelerle-bagli-bezi-tedbirler-haqqinda-azerbayc.asp

³⁰ <http://www.e-qanun.az/framework/39116>

8. Measures in the direction of combating corruption and improvement of legislation

This direction has addressed 10 commitments. Preparation of relevant legislative acts, including mechanisms for preventing conflicts of interest in the activities of civil servants and other public officials. According to the information released by the ACC, draft Law of the Republic of Azerbaijan on "Prevention of Interests in the Activity of Civil Servants and Other Officials" has been prepared and submitted to the CoM, but has not been adopted. In other words, it was not fulfilled.

Implementing measures in relation to submission of the financial data by official persons. It should be noted that the Parliament has adopted the Rules on "Disclosure of income Declaration of Public Officials" and it was signed by the President on August 14, 2005 and came into force. However, it is still remaining unfulfilled until nowadays. The main reason is that the CoM did not comply with order of the President, and it did not produce samples for income declaration of officials either.

According to the ACC information, a draft decision on approval of the "Rules and Form of Presentation of Financial Statements by Officials" was produced in 2017 with an aim to implement the measures related to the submission of financial information by officials. It is worth stating that the above mentioned report released by the ACC is not realistic. Back in In January 2013, the then executive secretary of the ACC, Vusal Huseynov, said that the same project was submitted to the CoM and further underlined that the process on preparing an advanced mechanism is underway³¹. Additionally, the form of the draft decision is posted on the website of the Prosecutor General's Office, but it has not been possible to get access to that page³². Therefore, this commitment is also remaining unfulfilled.

Preparation of proposals on the application of criminal-legal measures in relation to legal entities and the application of the "investigation dealings" institute within the framework of primary investigation of corruption offenses. According to the ACC information, international best practices in regard to "investigation dealings" institute have been studied, and a draft law was adopted to amend the Criminal and Criminal Procedure Codes of the Republic of Azerbaijan. Moreover, this process was agreed with relevant agencies and later submitted to the CoMs. Nevertheless, the relevant changes have not been made to the legislation, and consequently, this commitment was not implemented.

It should be noted that this commitment within the "National Action Plan for 2007-2011 on the implementation of National Strategy on promotion of Transparency and Combating Corruption " has considered the followings: providing information that is useful for investigating the competent authorities involved in corruption offenses and measures carried out to stimulate cooperation with them; studying matters on applying contract practices about cooperation with criminal prosecution authority. In those years, the Prosecutor General's Office

³¹ <https://az.trend.az/azerbaijan/society/2111152.html>

³² http://www.genprosecutor.gov.az/files/file/Vezifeli_terefinden_maliyye_xarakterli_melumat_teqdimi_tesdiqi.doc

announced studying international experience in this area and the application of the institute in our country³³. This was not implemented.

On June 30, 2017, the Law of the Republic of Azerbaijan "On Ethical Conducts of MPs of the Milli Majlis of the Republic of Azerbaijan" was adopted and came into force with the Decree of the President of the Republic of Azerbaijan dated August 7, 2017.

Carrying out measures in regard to implementation of the principles of transparency and the application of transparency standards in the state bodies under the "ASAN service" centers. Approval of "Civil Service Assessment Rules for ASAN Service Index" by Decree No. 1 / 1-06 of the Collegium of the State Agency for Citizens Service and Social Innovations under the President of the Republic of Azerbaijan dated 17.10.2016

The decision of the Collegium of the State Agency for Public Service and Social Innovations under the President of the Republic of Azerbaijan on 1/1-06 decision dating back to 17.10.2016 has approved the " Rules on evaluation of "ASAN service index" state services"³⁴. Moreover, "ASAN Service Index Evaluation Results" was announced jointly by the State Agency for Citizens Service and Social Innovations under the President of the Republic of Azerbaijan and ADA University on 21 September 2017³⁵.

Improvement of appeal procedures in regard with problems encountered by entrepreneurs and carrying out relevant measures. Appeal Councils (CEs) were established under the central and local executive authorities of the Republic of Azerbaijan by Decree No. 762 of the President of the Republic of Azerbaijan dating back to February 3, 2016 as well as their statute has been approved³⁶. Additionally, another decree with the same date has set out the creation of AC under the President of the Republic of Azerbaijan and its Statute was approved. Following the adoption of the decree on the Establishment of the AC, their formation was initiated by the local and central executive authorities.

According to the results of the "preliminary evaluation of the appellate boards created under the local and central executive authorities"³⁷, the level of awareness of entrepreneurship subjects about the activities of the ACs is insufficient. In particular, small entrepreneurship subjects have very little information about this. It should be noted that Appeal councils can be addressed via submitting application at via www.e-gov.az³⁸.

Develop an action plan for the application of international requirements in the fight against the legalization of criminal funds or other property and financing of terrorism. In pursuance of this commitment, " the National Action Plan for 2017-2019 on the fight against legalization of financial resources or other properties and funding of terrorism" was adopted by the No 2451 order of the President of the Republic of Azerbaijan on November 18, 2016

Ensuring public awareness about the reforms carried out in the economic field, their purpose and essence. This is a very general commitment. The 2017 report of the ACC did not contain

³³ <http://genprosecutor.gov.az/news/134/1481/azerbaycan-respublikasinin-prezidenti-cenab-ilham-eliyev-korrupsiyaya-qarsi-mubarizenin-davam-etdirilmesinde-donmez-qetiyyetini-ve-siyasi-iradesini-bir-daha-numayis-etdirmisdir>

³⁴ <http://www.e-qanun.az/framework/34012>

³⁵ <http://www.asan.gov.az/az/media/press-releases/asan-xidmet-indeksi-uezre-qiymetlendirme-neticeleri-aciqlanib>

³⁶ <http://www.e-qanun.az/framework/31992>

³⁷ Abil Bayramov, Mülki Cəmiyyətə Doğru İctimai Birliyin rəhbəri

³⁸ <https://www.e-gov.az/az/services/read/3568/1>

concrete facts.

Preparation of proposals on implementation of the services rendered to the population in the communal fields on the basis of customer satisfaction and transparency principles. By the decree of the President of the Republic of Azerbaijan dated to 04 May 2016 on " Measures for the establishment of ASAN Utilities", the "Azerishiq" Open Joint-Stock Company, "Azersu" Open Joint-Stock Company and "Azerigaz" Production Association of the State Oil Company of Azerbaijan Republic, and "Asan Kommunal" centers have been established to ensure that the services provided to individuals are implemented in "ASAN Kommunal" centers.

The aim is to optimize management and enhance transparency in public utility services, to apply ASAN service experience in other areas of service, to provide services with better quality, comfort and innovation, and to ensure citizen satisfaction in this area. Currently, there are 1 and 2 number "Asan Kommunal" centers operating in Baku³⁹.

9. Increasing transparency and responsibility in private sector

The first two commitments in this direction are to prepare proposals on anticorruption, transparency, ethical behavior and accountability (compliance mechanism) in order to ensure transparency in the private sector and prevent corruption, and provide training and training on this issue. According to the information of the Ministry of Economy (MoE) ⁴⁰, preparation of proposals, trainings and events have been ensured.

The 9th most important commitment is to facilitate the adoption of the Competition Code. The entity responsible for the implementation of the commitment is the Parliament. The Competition Code was submitted by the President to the Parliament 11 years ago, in 2007, and have passed through two readings. While some of the initiatives have been initiated for the third reading and adoption of the Code, it has not been possible yet. This creates the conviction that stakeholders who do not allow the adoption of the Code are very strong. According to independent experts and some MPs, the adoption of the Code is hampered by officials who have a strong position in the government.

In the ACC report for 2017, the information developed 10 years ago was deliberately introduced as a new activity: "The draft of the Competition Code was adopted in the 2nd reading of the Parliament. It is expected that the bill will be put on the third reading. "

As coming to the legislative and other measures related to the alleviation and decriminalization of liability for crimes committed in the economic sphere, some crimes committed in the economy field have been decriminalized with the law of the Republic of Azerbaijan on " Making Amendments to the Criminal Code of the Republic of Azerbaijan" , dated 20 October 2017, adopted in line with the decree⁴¹ of the President of the Republic of Azerbaijan on 10 February, 2017 on " Improvement of operation of the prison system, humanization of criminal policies and extension of application of alternative sanctions and non-custodial preventive measures".

10. Awareness raising and cooperation

³⁹ <http://www.asan.gov.az/az/category/asan-kommunal>

⁴⁰ <https://www.economy.gov.az/uploads/fm/files/hesabatlar/fealiyyet-plani2017.pdf>

⁴¹ <https://president.az/articles/22756>

The Anti-corruption Network of the Economic Cooperation and Development (ANECD), Anti-Corruption Team of the Council of Europe, the Anti-Corruption Team of the Council of Europe (ACTCE), the UN Anti-Corruption Convention , the Investigation Group, the International Prosecutors Association, the International Association for Combating Corruption, the Open Government Partnership and other international organizations have been further expanded and our country has successfully completed the 3rd rounds of the GRECO and Anti-Corruption Network, was one of the successful countries in the world advanced to the 4th round.

In addition to this, in the framework of the joint project of the Council of Europe and the European Union "Strengthening Azerbaijan's Anti-Corruption Capabilities" a training program on ethical conduct and anti-corruption issues have been developed by the ACC for civil servants and students. Anti-corruption topics have been added to relevant textbooks in accordance with the curriculum of higher and secondary vocational education institutions.

The 2017 report of the ACC says following: " The Anti-Corruption Commission and the relevant public authorities have published a legislative package on public administration and anti-corruption and other educational materials, including the publication of the "10 Years of Success in Combating Corruption" magazine and distributed among the targeted groups." However, the NAP indicates that the agency responsible for this commitment is not the ACC, but all local and central executive authorities. Observations and monitoring indicate that the majority of the LEC bodies have not been able to carry out the activities required for the implementation of this commitment.

11. Monitoring of implementation of action plan and organization of control

Let's review the implementation of the commitments in the last direction of the NAP. Central and local executive authorities should have prepared electronic software for the monitoring of the implementation of the NAP and identify those responsible for the implementation of the measures.

The Electronic Monitoring System (EMS) ⁴² has been established within the framework of the project "Strengthening Azerbaijan's Anti-Corruption Capabilities" jointly implemented by the ACC and the State Agency for Citizens Service and Social Innovations under the President of the Republic of Azerbaijan with the Council of Europe and the European Union. State bodies submitted their reports online via electronic system

According to the information released by the ACC, 61 state bodies, accounting for nearly half of the government agencies responsible for the implementation of the commitments have been integrated into the EMS by 2018. Additionally, relevant reports have not been disclosed regarding the identification of persons responsible for the implementation of the NAP measures by the public authorities.

It is noteworthy that the ACC report for 2017 indicates the establishment of the EMS as the second commitment under this direction (the exchange of information and organization of effective coordination among the specialized bodies in the field of anti-corruption with the internal control bodies of the state bodies). If so, then what was the meaning of marking this commitment as a separate direction? This is once again an official confirmation of the over-

⁴² www.ems.gov.az

statement of the NAP.

Another commitment is to inform the government about the measures taken to prevent corruption based on the annual reports submitted by the CoM to the Parliament. Neither the previous NAP nor the information on the implementation of the current program is systematically included in the CoM annual reports⁴³. Only part of the implementation of a state program has been touched on the NAP.

The evaluation of the implementation of the Action Plan and the presentation of the results to the public were carried out by the ACC with certain delays.

It should be noted that public opinion polls and investigations and the results of the Open Government and the Prevention of Corruption Prevention are the announcement of the findings and conclusions that ACC considers that the voluntary surveys at the "Easy Service" centers represent the approval of the commitment.

However, as it was in previous commitment, the bodies responsible for the implementation of the activity are all central and local executive authorities. Regrettably, the facts confirming the conduct of any enquiries and studies by these state bodies were not observed during the monitoring.

4. Outcomes

⁴³ <http://www.erc.az/files/reports/ERC-report.pdf>

The adoption of the second NAP in the country is coincided amid restrictions imposed over the activities of civil society and increasing the pressures on the NGO leaders. During the drafting and debate of the Action Plan, the OGP principles are not expected, the full use of online and live discussion opportunities, lack of feedback, artificial over-statement of the document, weakening of NGO control, monitoring and cooperation capabilities in the implementation of the Action Plan, and consequently, prevented an alternative assessment of all commitments within the Action Plan.

Although the high performance of the first NAP resulted in the re-planning of the same commitments, the lower performance indicators were recorded in those areas compared to the first Action Plan. Monitoring and evaluation indicate that there has been difficulties with the implementation of the majority of the commitments envisaged in the second NAP plan.

The main reason for this is non-compliance with commitments on creation of enabling environment for the activities of non-governmental organizations under the 4.1.2 paragraph of the "National Action Plan on the Promotion of the Open Government for 2016-2018" as well as the requirements submitted by the OGP Steering Committee to the Government of Azerbaijan in September 2017.

It should be noted that the implementation process of the second NAP was carried out against the OGP principles as opposed to the government-civil society cooperation environment. Moreover, the OGP dialogue platform, which is based on a pre-determined list of independent NGOs, was not able to act as an equal right in this process.

Looking at the commitments on directions, we can observe that none of the commitments included in the second NAP related to the improvement of e-services are targeted for the use of public expenditure, organizations funded from the budget, major big service providers operating under the patronage of the government and its funding, and ensuring transparency and accountability in the activities of joint-stock companies.

In the best scenario, an implementation of these commitments is aimed to reduce the number of documents required from the population, to expand the list of e-services and agencies providing e-services to the population, including to provide services from a single window, and to tighten the conditions on collection of duty and service fees.

The activities that provide information support and public participation have not yet been implemented as in the first NAP. In particular, the Office of the Commissioner for Human Rights (Ombudsman) has not established a special department to monitor the implementation of the requirements under the Law on Access to Information, which was aimed to be formulated in 2012, including the difficult access to information from government agencies, and non-disclosure of public information on regular basis by information owners are fundamental problems (not posting on the websites, not disseminating via print resources. etc).

The level of public participation has dropped to a lower level over the last five years. The process of establishing public councils, which is the most effective form of public participation, has almost been suspended.

The regular placement of normative legal acts on e-qanun.az and huquqidam.gov.az websites has been continued. This is the only aspect of implementation of the second NAP that

has been successfully terminated. In fact, the mechanism for the implementation of this commitment was completed in the first NAP period, however, it was not adequate to incorporate it again into the second Action Plan.

Non-disclosure of the activities and financial statements of government agencies in a timely manner and in line with the requirements, including failure to hold public hearings and debates on the draft budget, which is the largest financial document, and late submission of the draft budget to the Parliament are indicators that the commitment on ensuring transparency related to the state funding are not fulfilled. Similarly, the same can be said about the termination of discussions in a short period of time in the Parliament and over-statement of quarterly reports in regard to the implementation of budget.

The worst situation is related to the public procurements. There has been no government agency left after the abolition of the State Service for Consumer Rights Protection and Antimonopoly Policy under the Ministry of Economy to control this field. Even though there are serious shortcomings in public procurement within the framework of the Chamber of Accounts' supervisory and audit measures, no serious action is taken to ensure transparency in this area

The two most ambitious commitments outlined in the second NAP - failure to comply with the Competition Code and the lack of legal mechanisms to provide financial information by officials are the most negative outcomes in the implementation of the plan after accessing to information and public participation.

5. Policy recommendations

1. To eliminate the restrictions contained in the legislation and in practice related to the activities of civil society in the country, comply with the requirements of the OGP Steering Committee.

This includes the ensuring access to activities of foreign donors in the country, termination of an unreasonable refusal of NGOs registration, online grants registration procedures, simplification of granting procedures, abolition of a request for extracts from the registry every two years, and termination of illegal interference in the activities of NGOs under the guise of studying the activities of local and foreign NGOs (the abolition of the relevant legislative act).

2. The Office of the Commissioner for Human Rights (Ombudsman) must establish a department to monitor the implementation of the requirements of the Law of the Republic of Azerbaijan "On Obtaining Information", to approve its staff units and to provide appropriate funding to the Ministry of Finance

3. In order to facilitate the access to information, specific legal assistance mechanisms should be developed in the Office of the Commissioner for Human Rights (Ombudsman) and these mechanisms should be made available for public

4. Establish an independent platform for election monitoring with the participation of independent NGOs instead of providing an effective public oversight and independent monitoring of the implementation of the OGP commitments and the creation of a permanent dialogue between the government and civil society, forming a cohesion on sound basis;

5. Revise the legislative acts governing the formation of public councils under public authorities and municipalities, and modify the mechanism for public councils

The law requires public bodies to initiate public councils. They have been using these advantages for six years to halt the creation of public councils. In order to facilitate the process of forming public councils, the procedure must be changed, the right to initiate civil society organizations, and secondly, should form public councils, the deadline for local and central executive authorities should be determined

Taking into account the lack of civil society representatives in the regions, it is necessary to establish in the legislation the possibility of representation of neighborhood committees, communities in public councils to be set up by the bodies of the LEC agencies.

In addition, the requirement to establish public councils in relation to municipalities should be removed from the legislation. Because the management of municipalities is carried out by municipality members who are formed as a result of elections. In addition to this, there has been no public council across 1171 municipalities operating in the country so far.

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