

## **The activity of the Government of Azerbaijan in Open Government Partnership**

### **1) Azerbaijan's commitments toward to Open Government Principles**

Azerbaijan is one of the first countries joined Open Government Partnership in 2011. Following that, National Action Plan on Promotion of Open Government Principles (hereinafter – NAP) for the years of 2012-2015 was adopted with Presidential Decree in 2012. Anti-Corruption Commission, which is in charge of compliance of NAP, periodically evaluated the implementation level of NAP. Assessments of NAP are available at Anti-Corruption Commission's website in both Azerbaijani and English languages.

Anti-Corruption Commission, in its final assessment of NAP, concluded that measures envisaged in NAP were implemented 82% by state bodies.<sup>1</sup> As the result of NAP, state bodies fully implemented measures on (i) simplification of the access to information and (ii) provision of regular information regarding their activities. Furthermore, number of the services provided through e-government portal and "ASAN Service" centers (one-stop shop public service hall) increased, new law on public participation was adopted, public councils were set up near state bodies, public discussions were regularly held and close involvement of civil society institutions in the work of state bodies was assured.

National chapter of Transparency International regularly conducted independent monitoring of NAP with the financial support of USAID. TI-Azerbaijan concluded that final implementation rate for NAP was 76%.<sup>2</sup> This high evaluation rate once again showed the efficient and effective implementation of NAP.

### **2) Overview of drafting process of NAP 2**

According to OGP regulations, before the final assessment of NAP, drafting process of new National Action Plan on Promotion of Open Government Principles for the years of 2016-2018 (NAP 2) was commenced on 25<sup>th</sup> October 2015. Drafting process lasted for 6 months with inclusive and close involvement of international organizations, civil society organizations, media and state bodies.

All information on the development process and public consultations were made publicly available in the website of Anti-Corruption Commission in both English and Azerbaijani languages. All stakeholders were informed proactively through multiple channels including internet pages, NGOs' networks, radio sessions, Working Groups near Anti-Corruption Commission and direct invitations. Details of public consultations, format for input, materials for discussions and contact details were published in the webpage of Anti-Corruption Commission 7 days prior to each

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<sup>1</sup> <http://antikorrupsiya.gov.az/view.php?lang=en&menu=49>

<sup>2</sup> [http://www.transparency.az/alac/OGP\\_AZ\\_Report\\_Final\\_EN\\_Nov\\_2016.PDF](http://www.transparency.az/alac/OGP_AZ_Report_Final_EN_Nov_2016.PDF)

consultation. Findings of each public discussion, list of participants, pictures of meetings and summary of responses including through online submissions were made publicly available as well.

For the first time, NAP 2 was drafted by civil society institutions through NGO's Anti-Corruption Network and all public consultations were conducted by this Network. In one of the public discussions, more than 80 participants including mostly representatives of NGOs, international organizations, foreign embassies, public institutions and the delegation from South Africa chaired by her Excellency Deputy Minister, Ayanda Dlodlo attended. Throughout all public discussions, stakeholders have expressed their view that consultation process was open, participatory and inclusive. Such as, all proposals of them were collected by Anti-Corruption Commission and most of proposed measures were reflected in NAP 2.

It should be noted that, beside the interests of NGOs, state bodies and international organizations, Anti-Corruption Commission also took into consideration the opinions of citizens through radio sessions. Such as, several radio sessions have been undertaken in ASAN Radio within various programs. Several representatives from state bodies and civil society institutions participated in these radio consultations, informed about OGP core values and principles, commitments undertaken by Azerbaijan Government, carried out measures in this field and drafting process of NAP 2. Several valuable comments were received from ordinary citizens and they were reflected in NAP 2. Furthermore, draft NAP 2 was assessed by the experts of Council of Europe within the project of "Strengthening the capacity of Azerbaijan in prevention of corruption" funded by European Union. Findings of Council of Europe also have been taken into consideration. Anti-Corruption Commission has researched past and current Action Plans of all member states to OGP and concluded main findings and integrated best practices of other countries to NAP 2.

Final draft version of NAP 2 was discussed at the meeting of Anti-Corruption Commission on 22<sup>nd</sup> April 2016 and submitted to the President of Republic of Azerbaijan. NAP 2 was approved with Presidential Decree on 27<sup>th</sup> April 2016. It is important to note that, NAP 2 devoted 2 specific chapters on (i) improving enabling environment for civil society institutions and (ii) prioritizing support to projects and initiatives on open government. Apart from this, NAP 2 includes numerous commitments on different areas which ensures active role of civil society in its implementation and gives a strong message to the public. Some of commitments defined in NAP 2 are noted below.

- Preparing of proposals for improving the operational environment for NGO's
- Setting as a priority direction supporting the initiatives and projects of NGO's on Open Government and prevention of corruption
- Establishment and support to activity of civil society platform on "Open Government Partnership"

- Strengthening the activity of public councils and ensuring continuity of their work

### **3) Establishment of Open Government Dialogue Platform – [www.ogp.org.az](http://www.ogp.org.az)**

According to NAP 2, on 9th September 2016 “Open Government Partnership Dialogue Platform” was established to strengthen the cooperation, communication and partnership among state bodies and civil society organizations and to contribute further expansion of OGP principles/values in Azerbaijan.<sup>3</sup> Memorandum was signed by participating parties which defined the functions and objectives of the Platform and its charter was adopted. 10 state bodies, including Anti-Corruption Commission and Ministry of Justice, whose activity specifically relates to civil society organizations, parliament and 31 NGOs established the platform.<sup>4</sup> The event was attended by representatives of international organizations. The platform is open to any civil society organization. Charter of Platform and list of member organizations and state bodies are available in the website of platform.

OGP Platform carried out several meetings and presentations in 5 different regions of Azerbaijan with the purpose of expanding its activities and engage regional organizations with participation of state bodies and media. Based on the findings of meetings, OGP Platform submitted package of proposals on improving enabling environment for civil society organizations to the Government for consideration. Proposals of the platform were taken into account by respective state bodies and were reflected in legal acts.

Throughout the work of OGP Platform, concerns regarding registration of 17 member organizations (NGOs) and registration of respective documents of these organisations have been eliminated. Grant agreements which signed between foreign donors and numerous NGOs have been registered and in this regard the respective notification has been delivered to them, which enables NGOs to access the resources and continue their activities in a more efficient manner.

Tax and banking concerns including account restrictions have been eliminated, initiated criminal cases against them were dropped. Practise of checking of several NGOs in border-crossing points have been put an end. As well as, documents and other property seized from NGOs during investigations conducted by law enforcement bodies have been returned. Misunderstanding between banks and NGOs has been solved. Furthermore, Council on State Support to NGOs already supported 10 projects aiming at assisting implementation of OGP National Action Plan.

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<sup>3</sup> <http://ogp.org.az/index.php/2017/02/10/azerbaijan-creates-government-civil-society-dialogue-platform/>

<sup>4</sup> <http://ogp.org.az/index.php/members/>

#### **4) Strong political will on improvement of enabling environment for NGOs**

Based on the suggestions of OGP Platform, the President of the Republic of Azerbaijan signed the decree on application of ‘one window’ (or one stop shop) principle in issuing of grants by foreign donors on 21<sup>st</sup> October 2016.<sup>5</sup> This decree aims at strengthening civil society institutions, supporting their activities and facilitating the procedures for issuing grants by foreign donors in Azerbaijan.

According to the decree, as of 1 January 2017 "one window" principle is applied during the procedure of issuing foreign donors' grants in Azerbaijan. At the same time, the measures will be taken for simplifying the procedure of obtaining an opinion on the financial and economic expediency of grant, including ensuring the implementation of it based on application of both foreign donor and the recipient.

The decree aims to eliminate the concerns of civil society organizations, facilitate access to external funding sources, which is a concern for NGO sector. Decree will ensure that by "one window" principle procedures of obtaining the opinion of expedience will be much easier, less time and bureaucracy without any negative cases.

#### **5) First decision of Cabinet of Ministers on improving enabling environment**

In order to fulfil the requirements of Presidential Decree on application of “one window” principle for issuing of grants by foreign donors, on 11<sup>th</sup> January 2017, Cabinet of Ministers has made amendments to its decision on “Regulations on registration of grant contracts”. Merits of above-mentioned decision are followings:

Initially, NGOs have to submit foreign grant contracts to relevant state authority within 15 days. OGP Platform submitted that, 15 days period was very short period because translation of required documents (including grant contracts) to national language takes too much time. Considering the suggestion of OGP Platform, this period is now prolonged two times to 30 days.

Furthermore, NGOs those received funds from state authorities had obligation to submit this information to relevant state authority within 3 working days and now this period is also increased to 7 working days.

Another breakthrough in these amendments is that new regulations allow NGOs register their grant contract as service contract. Rena Safaraliyeva, the executive director of national chapter of Transparency International, appraised this change very positive development.<sup>6</sup> Practically, all foreign donors can now give grant as a service contract to any non-governmental organizations.

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<sup>5</sup> <http://az.president.az/articles/21504>

<sup>6</sup> <http://transparency.az/grant-muqavilələrini-qeydə-alınması-qaydasına-dəyisikliklərlə-bağlı/#more-1383>

Furthermore, according to new amendments, the number of documents required for registration of grant was dramatically reduced. Such as, documents - on (i) state registry, (ii) charter of NGOs, (iii) right to give grants by donor organizations, (iv) submission of annual financial reports to Ministry of Finance by NGOs, (v) power of attorney in case of documents are not submitted by person who signed the contract or official representative of organization- are eliminated.

Besides, previous regulation required NGOs to submission notarial confirmation of authenticity of translation of documents. New amendments relieved NGOs from this obligation and currently they don't have to send official notarized version of required documents.

In addition to that, if the relevant state authority has identified any shortcomings in the submitted documents of NGOs regarding the registration of grant contracts, NGOs had 5 working days to eliminate these deficiencies and re-submit again. After the amendments, 5 day period is prolonged to 10 working days.

#### **6) Second decision of Cabinet of Ministers on improving enabling environment**

In order to complement carried out reforms in this field, on 27<sup>th</sup> January 2017, Cabinet of Ministers did further amendments to its decision on "Regulation on the right to give grants by foreign donors in the Republic of Azerbaijan".

New changes simplified procedures for donors in order to receive the right to give grants to non-governmental organizations. Such as, from now on, donors do not have to submit following documents to relevant state authority in order to get the right to give grant:

- documents, which stipulates purpose, amount, execution period of grant agreement planned to be signed between foreign donor and recipient
- in case of sub-grant, draft version of grant agreement including documents prepared for grant agreement
- documents on (i) registry, (ii) charter and (iii) decision on the establishment of foreign donors
- letter of attorney for signing relevant documents in behalf of foreign donor
- notarial approval of authentication of translated documents

Furthermore, review period for the submission of donors regarding receiving the right to give grant is reduced two times, which will increase efficiency in this process. It should be noted that, latest reforms are indicators of strong will, government-civil society partnership and fruitful discussions. OGP Platform and International Center Non-Commercial Law (ICNL) highly praised latest developments.<sup>7</sup>

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<sup>7</sup> <http://az.azvision.az/news.php?id=109989>

## **7) Application of new innovation in the monitoring of NAP 2**

Anti-Corruption Commission, with support of the project of “Strengthening capacities to fight and prevent corruption in Azerbaijan” implemented by Council of Europe and funded by European Union, launched new “Electron Monitoring System”. New system simplifies and expedites the submission of progress reports by state bodies tasked with carrying out specific measures under NAP 2 and facilitates reviewing and monitoring by the Anti-Corruption Commission.

Such as state bodies, through new e-portal [www.ems.gov.az](http://www.ems.gov.az), are currently sending progress reports including images, videos and other relevant documents for each and specific measures envisaged in NAP 2. Contact points from each state body are interacting with each other and Anti-Corruption Commission in the online form. In addition to that, contact points can publish information about carried out or planned events on their activities on e-portal. This practice encourages other state bodies to learn and follow best practices of other state bodies. Another caveat of this e-platform is that OGP Platform will be given access to this system and they will be able to do independent monitoring of NAP 2 without applying to state bodies. It should be noted that Azerbaijan is a first country in the region applying e-monitoring system in evaluation of NAPs.

## **8) Azerbaijan established Electronic Court System**

New Electronic Court System was established by Presidential Decree. According to Presidential Decree, new e-court system allows electronic filing of documents, including filing of civil complaints. Attorney and other parties can create an account in that portal and send their documents through that portal. New e-court system incorporates the digital signature which allows users to sign documents with digital signatures. Azerbaijani judicial system has made attempts to design a system for impartial allocation of cases among judges or court panels. To eliminate the outstanding issues and to further increase transparency in this area, Presidential Decree provides automatic allocation of cases among judges or court panels. Presidential Decree also provides video and audio recording of court proceedings which also allows online observation of court proceedings. Notification system within new e-court system informs participants of the case of important deadlines.