

**To: Open Government Partnership Steering Committee**

**Dear members of OGP Steering Committee**

Please note below developments in regard to existing concerns.

## **1. Timeline and availability of drafting process of National Action Plan**

Drafting process of new Action Plan on Open Government started on 21<sup>st</sup> October 2015. All information regarding the development process and public consultations were made publicly in English and Azerbaijani languages in the website of Anti-Corruption Commission of the Republic of Azerbaijan. Citizens, representatives of relevant state bodies, civil society institutions and other stakeholders were informed proactively through multiple channels including internet pages, NGOs' networks, Working Group 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 consultation. Findings of each public discussion, list of participants, pictures of meetings and summary of responses through online submissions were made publicly available as well. This information was submitted to OGP Secretariat as well based on previous recommendation and communication.

Initially it is planned to finalize drafting process of new action plan by the end of December 2015 and submit for adoption on January 2016. But the number of proposals and active involvement of civil society preconditioned that more time is needed to finalise the process. By request and with consultation with Anti-Corruption Network of NGOs, it was agreed and accepted by all stakeholders to extend drafting process in order to prepare a Action Plan with numerous commitments, which reflects needs and concerns of all stakeholders. Drafting Process of action plan is almost finalised and is expected to be submitted for signing next week by 24<sup>th</sup> of April. It is expected that new Action Plan will be adopted in the beginning of May. Draft Action Plan includes 11 directions and more than 50 commitments including commitments on NGO activities and in general operating environment.

## **2. Consultation with civil society**

Consultation process of drafting of new action plan was transparent, open for everyone and any organization including our international partners. In the first

announcement, Anti-Corruption Commission has kindly asked all interested parties to actively participate in drafting process and submit their proposals electronically. Multiple channels were provided for all stakeholders to reflect their views and concerns regarding measures envisaged in draft action plan. Drafting process was carried out by mainly representatives of civil society institutions within framework of Anti-Corruption Network of NGOs and Working Group near Anti-Corruption Commission together with several public hearings and expert level meetings.

National chapter of Transparency International and Anti-Corruption Network of NGOs have submitted package of measures, which encompass main part of draft action plan. Furthermore three public discussions were held on draft action plans and all recommendations of non-governmental organizations were noted, published in the website of Commission and integrated to new action plan. In latest public discussion more than 80 participants including mostly representatives of NGOs, international organizations, foreign embassies and public institutions attended. Beside the public discussions, several working-level meetings were carried out with representatives of NGOs, state bodies, citizens and international partners. Further internet links provide information, pictures and details (names of participants and organizations attended) on implementation of public discussions.

- 1) Third public discussion: <http://goo.gl/zmdUf8>
- 2) Announcement of third public discussion: <http://goo.gl/yfvwsp>
- 3) Second public discussion: <http://goo.gl/16xU1V>
- 4) Announcement of second public discussion: <http://goo.gl/XRkiXq>
- 5) First public discussion: <http://goo.gl/W5dyJQ>
- 6) Announcement of first public discussion: <http://goo.gl/FKphlf>

During the latest public discussion, representatives of several NGOs and international organizations have expressed their view that consultation process was open, participatory and inclusive. Delegates from South Africa chaired by her Excellency Deputy Minister visiting Azerbaijan for the purpose of submitting a report to OGP Steering Committee also attended the event. There was an open environment, all proposals were collected and considered and most of proposed measures were reflected in final draft document.

### **3. Peer exchange and technical support**

Working Group functioning near Anti-Corruption Commission has researched past and current Action Plans of all member states of OGP from the webpage of OGP, and other sources of member countries, concluded main findings and integrated best

practices of other countries to new Action Plan. Furthermore, the issue was discussed with diplomatic representative of Croatia in Azerbaijan last year before starting the drafting process. The office of Deputy Minister for Public Service Administration of South African Republic has given several recommendations regarding the drafting process of new action plan. The draft version of new action plan was also independently evaluated, legal expertise and proposals were provided by Council of Europe within the project “Strengthening the capacities of fight against corruption in Azerbaijan”.

#### **4. Commitments to improve the operating environment for civil society**

Ministry of Justice of the Republic of Azerbaijan conducts the registration of NGOs in a transparent and open format. List and format of all required documents for the registration of NGOs are publicly available in electron service portal of the ministry and citizens could send those documents through post office or in person. During the years of 2013-2015, 500 NGOs have been registered and in general more than 4000 NGOs are functioning in Azerbaijan. Adoption and implementation of Law on Public Participation, establishment of public councils near the state bodies, regular public discussions and hearings ensured the close participation of civil society institutions in the activity of state bodies.

Furthermore, projects and initiatives of NGOs on open government partnership are being regularly supported and financed by public institutions.

Recent legislative reforms on financial activities of NGOs are implemented in order to ensure clarity, accountability, transparency and openness in the financial activity of NGOs. Cabinet of Ministers recently adopted new decision which regulates matters on receiving grants from foreign donors. Recently the bases of donor agencies were increased by Presidential Decrees to enable more financial support to civil society institutions by central and local executive bodies.

Developments took place also concerning representatives of civil society institutions whose names were mentioned in the final report of Criteria and Standards Subcommittee of OGP on Azerbaijan and who were held accountable for concrete crimes including tax evasion, illegal financial activity and other legal violations.

On 13 May 2014 the Prosecutor General’s Office instituted criminal proceedings under Articles 308.1 (abuse of power) and 313 (forgery by an official) of the Criminal Code in connection with alleged irregularities in the financial activities of a number of non-governmental organizations. Below is information on civil society activists whose names were noted in Steering Committee report and convicted by court decisions.

*Intigam Aliyev* – was convicted under Articles 179.3.2 (misappropriation), 192.2.2 (illegal entrepreneurship), 213.2.2 (large-scale tax evasion), 308.2 (abuse of power) and 313 (forgery by an official) of the Criminal Code. According to the judgment of the court he illegally gained more than AZN 431,000 (approximately USD 278,000 ) and avoided paying taxes in the sum of more than AZN 65,000 (approximately USD 42,000).

*Rasul Jafarov* – was convicted under Articles 179.3.2 (misappropriation), 192.2.2 (illegal entrepreneurship), 213.1 (large-scale tax evasion), 308.2 (abuse of power) and 313 (forgery by an official) of the Criminal Code. According to the judgment of the first instance court he illegally gained more than AZN 150,000 (approximately USD 97,000 ) and avoided paying taxes in the sum of more than AZN 6,000 (approximately USD 4,000). After paying the sum of taxes the accusation under 213.1 of the Criminal Code was lifted by the appellate instance court, accordingly the imposed sentence was also decreased.

*Anar Mammady* - was convicted under Articles 179.3.2 (misappropriation), 192.2.2 (illegal entrepreneurship), 213.1 (large-scale tax evasion), 308.2 (abuse of power) and 313 (forgery by an official) of the Criminal Code. According to the judgment of the first instance court he illegally gained more than USD 163,000 without paying taxes.

*Ismayilova Khadija* - was convicted under Articles 179.3.2 (misappropriation), 192.2.2 (illegal entrepreneurship), 213.1 (large-scale tax evasion) and 308.2 (abuse of power) of the Criminal Code. According to the judgment of the first instance court she illegally gained more than AZN 335,000 (approximately USD 216,000 ) and avoided paying taxes in the sum of more than AZN 45,000 (approximately USD 29,000).

On 17 March 2016 President of the Republic signed pardoning decree and names of almost all civil society representatives whose names mentioned in final report were pardoned .

Here are the names noted in the report who were pardoned by recent Presidential Decree.

- Anar Mammadli –Ex-chairman of Election Monitoring Centre
- Tofiq Yagublu – Deputy of “Musavat” party
- Yadigar Sadigov – Member of “Musavat” party
- Siraj Karimli - Member of “Musavat” party
- Rasul Jafarov – Legal protection and Awareness Society
- Hilal Mammadov – Ex-editor in chief of “Tolışi Sədo” newspaper
- Taleh Khasmammadov – human rights defender
- Omar Mammadov – Member of NIDA Movement
- Rashadat Akhundov – Member of NIDA Movement
- Mammad Azizov – Member of NIDA Movement

- Rashad Hasanov – Member of NIDA Movement

By decision of Baku Court of Appeal in 2015, Leyla Yunus and her husband Arif Yunus were released from prison. On 28<sup>th</sup> March 2016, Intigam Aliyev was released from prison.

Besides criminal cases were suspended, arrests on bank accounts were lifted and charges on tax crimes were canceled regarding the members of below NGOs most of which also actively involved into Extractive Industries Transparency Initiative in Azerbaijan on March 2016. Below are the names.

- Economic Research Center - Gubad İbadoghlu,
- Economic Research Center - Galib Bayramov
- Support to free economics - Zohrab İsmayıl
- Democratic Institutions and Human Rights - Elchin Abdullayev
- Free Person Human Rights Protection Society - Sabuhi Gafarov
- Protection of Rights of Oilmen - Mirvari Gahramanlı
- Caucasus Media Research Center - Anar Orucov
- Economic and Social Development Center - Vugar Bayramov

Furthermore, new commitments on improving enabling environment for civil society institutions and prioritizing support to projects and initiatives on open government are integrated to new Action Plan. Exact commitments defined in current draft from are noted below.

- **Preparing of proposals for improving the operational environment for NGO's**  
**Responsibly agency:** Cabinet of Ministers, Ministry of Justice, State Council on Support to NGO's
- **Setting as a priority direction supporting the initiatives and projects of NGO's on Open Government and prevention of corruption**  
**Responsibly agency:** State Council on Support to NGO's, central and local executive bodies
- **Establishment and support to activity of civil society platform on "Open Government Partnership"**  
**Responsibly agency:** State Council on Support to NGO's, central and local executive bodies. Recommended to civil society institutions
- **Strengthening the activity of public councils and ensuring continuity of their work**  
**Responsibly agency:** Central and local executive bodies

Apart from this Action Plan in general includes numerous commitments on different areas which ensures active role of civil society in its implementation and gives a strong message to the public.

## **5. Working with the OGP Steering Committee**

Secretariat of Anti-Corruption Commission and national focal point for OGP proactively informed and responded to all inquires of Supporting Unit and Steering Committee of OGP before the deadlines and submitted required information/updates based on requests.