



Open Government Partnership
Independent Reporting Mechanism
Comment received on the End of Term Report for Ukraine's
third OGP action plan (2016-2018)

The IRM received the following comments on Commitment 3 (“Ensure the filing and publication of e-declarations”) from Kyryl Popov from Ukraine’s National Agency on Corruption Prevention (NACP):

On electronic declarations and the ITS Register

By the 1.07.2017 - 1 million 430 thousand electronic documents were submitted to the ITS Register. Out of which: more than 1 million 240 thousand declarations, 174 thousand corrected declarations and almost 16 thousand notifications on substantial changes in property status.

The draft Report cites that during the annual stage of electronic declaration in Ukraine (from 1.01.2018 till 01.04.2018) the on-line portal experienced less technical difficulties and less service errors occurred due to enhancement of processes: declarants were able to save their previous drafts and submitted declarations beforehand. Also, information indicates that the National Agency on Corruption Prevention (NACP) commenced on-line training for civil servants and public officials concerning appropriate submission of e-declarations (mainly in form of video lectures) as well as provided advise via email and phone lines on correction of submitted declarations.

In this relation the following must be pointed out: from 12:00 to 12:40 on the 15th March 2018 some difficulties in access to the website <https://portal.nazk.gov.ua> were recorded, it was due to failure in the system of electric supply in the technical administrators platform of the ITS Register. Other technical errors or irregularities in the work of the ITS Register, which could disable submission of electronic declarations (from 01.01.2018 till 01.04.2018), were not recorded.

In order to provide appropriate functioning of the ITS Register, especially during the annual stages of electronic declaration in Ukraine, NACP safeguarded the following:

- Concluded agreements on: rental of hardware equipment, on which the ITS Register is deployed, placement of such equipment, administration and program-technical support of the ITS Register software;
- Conducted enhancement of equipment on which the ITS Register is deployed, in compliance with recommendations provided by the administrator State Enterprise “USS”;
- Conducted maintenance of server equipment on which the ITS Register is deployed;
- Provided permanent monitoring of the ITS Register functioning, if failures ever detected - measures are implemented swiftly;
- Developed recommendations for work with the ITS Register, responses for most frequently asked questions as well as recommendations for filling-in of declarations, created educatory videos which are posted on NACP website and information resources of other state bodies, as well as shared on social media;
- Regularly arranged functioning of telephone hotline and technical assistance via email;
- During annual stages of electronic declaration in Ukraine arranged functioning of Operational headquarters in order to assist subjects of declaration;

It also must be noted that declarants receive assistance not only concerning correction of submitted declarations, but on other issues which may possibly arise when working with the ITS Register.

On logic and arithmetic control of declarations

In 2018, with support of UNPD Ukraine, the software for logic and arithmetic control of declarations (hereinafter - LAC) was enhanced. According to conclusions provided by the quality control group: on 20.08.2018 NACP accepted the LAC software from UNDP Ukraine, built a complex system of information protection (hereinafter - CSIP) for LAC, prepared a package of necessary documentation, conducted tests and trials of the system. On results of the conducted expertise, the CSIP obtained a conformity certificate in line with legal requirements of technical information protection (registered in State Special Communications Service of Ukraine on 21.09.2018 № 17528).

Therefore, to provide appropriate operation of the system, NACP adopted several necessary regulatory measures:

- “On approval of amendments to Procedure for conducting control and comprehensive verification of declaration of person authorized to perform functions of the state or local self-government” from 21.12.2018 № 3206, Ministry of justice registration from 14.01.2019 № 34/33005.
- “On approval of Rules for logic and arithmetic control of declarations of persons authorized to perform functions of the state or local self-government, automatic verification of such declarations and their weighting factors” from 21.12.2018 № 3207, Ministry of justice Registration from 14.01.2019 № 34/33006.

Functioning of LAC implies automatic information exchange with 16 state registers and information data bases, which are operated by the following state bodies: Ministry of justice, Ministry of internal affairs, State fiscal service, State service of sea and river transport, State aviation service, State pension fund, State geographical cadaster, State border service and National commission on securities and stock market. NACP carried agreement of structures and formats for the automatic information exchange and concluded protocols of automated exchange with 13 registers and data bases of these state bodies, established safe connection lines and so forth. To enable information exchange with the outstanding 3 registers in operation of the Ministry of justice it is necessary for the Ukrainian parliament to pass the bill № 7276, which is awaiting approval since mid-2017.

On 15.01.2019 NACP approved the decision № 38 “On supplying of technical potential for application of logic and arithmetic control” which benchmarked application of automatic access and information exchange between NACP and the above-mentioned state registers and data bases.

On results of declaration verifications

As of 31.12.2018 NACP was conducting comprehensive verification of 1250 electronic declarations of persons authorized to perform functions of the state or local self-government in relation to 750 top-officials. On results of such comprehensive verifications NACP prepared 243 sustained conclusions and forwarded them to the specially authorized subjects in the field of combating corruption for further investigation and subsequent action. Out of the above: 89 on declaration of false information amounting over 250 subsistence levels; 5 on detection of signs of illicit enrichment; 149 on facts of deliberate non-submission of declarations.

On submission of electronic declarations by civil society activists

According to the Constitutional Court of Ukraine decision (from 06.06.2019 №3-p/2019) legal provision on submission of declarations by civil society activists is regarded as unconstitutional. Therefore, this provision gained abolition from the Law of Ukraine “On prevention of corruption”. In its various decisions NACP simultaneously supported abolition of provisions regarding measures of financial control imposed upon separate categories of persons, such as civil activists.

On closed categories of electronic declarations

Some records are closed indeed, however, it shall not be looked at as a disadvantage of the Ukrainian legal framework, since it directly relates to normative limits on publication of certain documents, which are classified as a State secret. Therefore, records on persons related to conducting any intelligence or related activity, either information concerning related records, positions, memberships in divisions, home addresses of personnel involved in special operations, are classified. Furthermore, records reflected in electronic declarations (particularly - home addresses) of such persons are as well classified, hence, such information cannot be published or processed by the ITS Register.

On substantial changes in property status

According to part 2 article 52 of the Law of Ukraine “On prevention of corruption”, in case of substantial change in declarants’ property status, meaning income-generation, purchasing of property which amounts to equivalent of 50 subsistence levels (set for working persons at 1 January of that year), must notify NACP within 10 working days from the moment of purchase or income obtainment. Such notification occurs by submitting an electronic form via personal electronic cabinet in the ITS Register.

On cooperation with NABU

The report contains information concerning refusal of passing of all information from the ITS Register to NABU. In particular, that NACP does not pass the unique identifier which would allow for clear identification of persons. In this relation, it is unclear which unique identifier is under discussion. NACP points out that within the framework of information cooperation with NABU, all forms of access to all submitted declarations contained in the ITS Register, inclusive of information with limited access, is provided to NABU. 127 authorized employees of NABU have access to the ITS Register. The current conditions of access allow the NABU personnel to clearly identify persons according to their individual taxpayers’ numbers as well as Name Patronymic and Surname.