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Recommendations of Institute for Development of Freedom of Information (IDFI) on the Draft Anti-Corruption Action Plan for 2017-2018

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Overview

Institute for Development of Freedom of Information (IDFI) welcomes the elaboration of new Anti-Corruption Action Plan for 2017-2018 by Secretariat of Intergovernmental Anti-Corruption Council. Despite the comprehensive input from the responsible agencies, IDFI identified several shortfalls with respect to the reflection of international commitments, derived from the GRECO and OECD-ACN evaluation reports. It is also important to include 2016 London Anti-Corruption Summit Country Statements, which government took obligation to fulfil, into the new Action Plan.

As a general comment, IDFI wants to mention that some of the paragraphs, indicators and related commitments are technically copied from the previous Action Plan. Some of them are not adapted to the new Action Plan and need further revision. In addition, IDFI considers that considering the standard that the previous Action Plan has set, the secretariat of Anti-Corruption Council had possibility to coordinate with the responsible agencies and suggest the policy documents that would fully cover international commitments. However, IDFI hopes that until the approval of the Strategy and Action Plan they will be refined and updated according to the international commitments.

IDFI also considers that ex-post evaluation of the Action Plan is of crucial importance. This will give the opportunity to responsible parties to evaluate the gaps and shortcomings and eliminate them for future Action Plans.

In the first draft of Anti-Corruption Action Plan for 2017-2018 IDFI evaluated existing activities according to the thematic priorities and suggested recommendations on adding various activities and directions. The document analyzes the main priorities and activities of the Action Plan.

Priority I. Effective interagency coordination in order to prevent corruption

Effective interagency communication means inclusion in the Council of those agencies, which are not active, and have no obligation under the Action Plan. IDFI recommends that the secretariat of Anti-Corruption Council should present the consolidated information on the agencies that do not/no longer participate in the work of the Anti-Corruption Council. Preferably, the information should be presented on the next Council meeting. Such important state institutions as the Ministry of Environment and Natural Resources Protection, Ministry of Energy, Ministry of Regional Development and Infrastructure, and the Parliament of Georgia are not included into the 2017-2018 Action Plan.

IDFI recommends in 1.1 result indicator to change the number of Council meetings from four to six, which will be two more meetings than formally agreed in the Statute. This will be a sign that the Council is ready to meet more times than defined by the government.

Since the Article 2 of the Statute of the Anti-Corruption Council foresees the possibility of appointment of the deputy chair of the Council, IDFI recommends assigning this function to the representative of civil society organizations, thus sharing the experience of the Open Government Georgia's Forum. Moreover, it is recommended to give opportunity to the deputy chair of the Council to add issues to the agenda, which will make the Council's work more inclusive. Preferably, this change should be reflected as an activity in the first priority.

IDFI recommends that risk evaluation methodology in 1.1.3 activity be discussed in the Council's working group format.

Indicator for result 1.3 is formulated as follows: "the quality of the Anti-Corruption Strategy document has been improved". This formulation is vague and based on subjective assessment. IDFI recommends changing this indicator and making it more precise.

1.4.1 activity was already present in the 2015-2016 Action Plan. Cooperation with international organizations and fulfilment of GRECO and OECD-ACN recommendations is already an obligation under the Article 6 paragraph i) of the Statute of the Council. Therefore, it is not recommended to put it as an activity into the Action Plan. IDFI recommends, in order to further international cooperation, to hold regional Anti-Corruption Conference, which gives an opportunity to the participants to share knowledge and experience in the field. The Secretary of the Anti-Corruption Council should be responsible for its organization.

IDFI thinks it is important to fulfil OECD-ACN fourth round monitoring recommendations to the maximum extent possible. According to recommendation, full budget of the Action Plan should be calculated to determine expenditures for activities in advance.

As was stipulated in the second recommendation of OECD-ACN, IDFI considers it necessary to devise public relations strategy to raise awareness. In addition, educational activities should be increased targeting specific interest groups.

IDFI recommends creating an Anti-Corruption division in the Analytical Department of the Ministry of Justice of Georgia. This will help separate the department's anti-corruption work from other activities. Furthermore, it is important to increase parliamentary oversight and involvement of the members of the Parliament in the anti-corruption process. IDFI agrees with OECD-ACN recommendation for Council to submit regular parliamentary reports.

Priority II. Prevention of corruption in the public sector

In order to prevent corruption in the public sector, it is necessary to fulfil obligations under the public service reform concept and Law on Public Service, the enactment of which was postponed to the second half of 2017.

According to activity 2.1.1. of the Action Plan, the final date for the discussion of the draft law on salaries in the public sector is set for December 2017, and the date of the enactment of the law on Public Service is set on July 1, 2017. A quick adoption of this law is one of the recommendations of the OECD-ACN fourth round monitoring.

IDFI recommends defining presentation of the draft law on LEPL to the Parliament as one of the activities of the second priority. This obligation is also prescribed by Article 126 paragraph 2 of the Law on Public Service. The adoption of this law is a significant achievement against combating corruption in the public sector. The law regulates issues and challenges regarding labor relations, transparency, accountability and integrity.

The indicator for 2.1 result is “the population’s positive attitude towards public sector has increased”. To be able to use such indicators baseline data should exist, against which the progress will be measured. IDFI thinks that this indicator should be changed or revised.

IDFI deems important to continue awareness raising activities on whistleblower issues. Awareness about whistleblower issues is still low in the public sector, which was also indicated by OECD-ACN report. The tenth recommendation of the report underscores the importance of continuation of awareness raising activities in this area.

The 2.2.1 activity - “renewal of the guidebook about code of ethics of public servants adopted by the Georgian government” – creates an impression that the code of ethics is already approved by the government, which is not correct. It is important to add a separate obligation on adopting the code of ethics.

Priority III. Openness, access to public information and civic participation in the process of combating corruption

IDFI recommends adding activities that promote civic participation. Additionally, an activity could be devised that aims to improve mechanisms of electronic engagement and electronic transparency.

No activity regarding open data is planned under results and obligations of this priority. Open data is an innovative way to access public information, which helps raise public awareness, and publish information into easily accessible formats. Georgia made several correct steps in that direction, including creation of a web-portal data.gov.ge, where public information is uploaded.

IDFI thinks it is necessary to add activities regarding open data to the Action Plan. Namely, 15th recommendation of OECD-ACN fourth round, which discusses implementation of open data in public procurement, should be taken into account. Moreover, IDFI recommends that obligations taken by

Georgian government on May 12 London Anti-Corruption Summit should be reflected in the Anti-Corruption Action Plan. Specifically, Georgia promised to implement Open Contracting Data Standard and the International Open Data Charter principles.

IDFI considers important for the country to join Extractive Industries Transparency Initiative – EITI, which will facilitate disclosure of more information about oil, gas, and mineral extractor companies.

One of the indicators for the 3.1. result of the 2017-2018 Anti-Corruption Action Plan is “the rate of approved public information requests increased”. It is preferable to include in this indicator how the progress will be measured. The activity 3.1.3 deals with improving qualification of those responsible for disclosure of public information, and development of a coordination mechanism. In addition to the number of meetings, the number of participants should also be indicated. Furthermore, in activity 3.1.3 it is not clear how the coordination mechanism will be developed, which is necessary for the completeness of this activity.

According to activity 3.3.1, monitoring and evaluation of the implementation of Open Government Action Plan should be conducted and reports provided to the Anti-Corruption Council. IDFI thinks that such measures should not be presented in the Action Plan as activities because reporting, evaluation and monitoring is an established practice and ongoing process. Instead of such formulation, the requirement for reporting and monitoring could be included in the statutes of the Open Government Georgia Forum and Anti-Corruption Council, which will be deemed as improvement of institutional framework.

The London Anti-Corruption Summit of May 12, 2016 devoted much attention to the issues of ownership of offshore companies. The Summit coincided with publication of the famous Panama Papers, which proved once again that offshore companies are one of the tools to money laundering. At the Summit, six countries (Afghanistan, France, Kenya, The Kingdom of Netherlands, Nigeria, and Great Britain) took obligation to establish the registry of beneficial owners of offshore companies. Despite the fact that Georgia did not take the obligation, the government of Georgia declared that it is discussing the possibility of establishing such a registry. IDFI recommends that the Ministry of Justice of Georgia set up the registry of beneficial owners of offshore companies.

Priority IV. Education and raising public awareness in order to prevent corruption

Based on activities it could be estimated that awareness raising activities will cover 50 people, which IDFI considers to be low. IDFI recommends having several activities aiming at various target audiences.

Apart from enlarging the target audience, it is important to determine level of societal consciousness, which should be backed by concrete quantitative measurements. Only after such study will it be possible to measure the degree of improvement of statistical data.

Under 4.1.3 activity it is planned to hold information meetings about anti-corruption politics at least in two regions. IDFI believes that the number of regions as well as meetings should be increased. Additionally, it is preferable to use other electronic resources, and involve media in the awareness raising campaign. IDFI recommends having a training for journalists on the issue of corruption. This training

would be an opportunity to present activities under the current Action Plan and inform journalists about existing institutional and legal framework.

In order to improve public awareness and education, IDFI deems necessary to conduct a social media campaign. A social media campaign will allow responsible agencies to have effective communication with various target audiences.

Under the 4.1.4 activity it is planned to have only one model meeting of the Anti-Corruption Council, which is not in line with the name and aim of the activity. It is recommended to increase the number of meetings or change the name of the event.

Furthermore, 4.2.3 activity stipulates that an anti-corruption banner will be placed on the webpage of the Ministry of Justice. IDFI does not consider this activity of such importance to include it in the Action Plan.

Due to the fact that information about anti-corruption activities at the national level is spread on several websites, IDFI recommends under fourth priority to create a separate webpage for Anti-Corruption Council as it is indicated in the OECD-ACN report. This website should contain all events and material necessary for effective work of the Council and for keeping the public fully informed.

Priority V. Prevention of corruption in law enforcement agencies

One of the most important components of the prevention of corruption in law enforcement agencies is institutional reform of the Prosecutor's Office. In this regard, it is significant to reflect on GRECO fourth round monitoring report and OECD-ACN fourth round report recommendations. Namely, IDFI thinks that the Action Plan should include GRECO recommendations about decreasing the influence of the executive branch and parliamentary majority on the Chief Prosecutor's appointment procedure and prosecutor's council. The November 4, 2015 joint document from the Venice Commission, CCPE, OSCE, and ODIHR also shares this idea. The document emphasizes that the reform of the prosecutor's office is heading in the right direction; however, the proposed procedure for electing chief prosecutor does not fulfill the goal of depolitization.

IDFI supports the inclusion of GRECO recommendation in the Action Plan that deal with implementing clear and objective criteria for distribution of cases among prosecutors, and obligation for upper level prosecutors to prove their decision in written form. The GRECO report underscores that upper level prosecutors have wide authority with regard to their subordinates which is logical and acceptable in the hierarchical system. However, it is necessary to form a such system that will have checks and balances during case distribution.

Under the activity 5.1.3 it is planned to implement, improve and analyze transparent and open system for prosecutor's salaries and bonuses. For transparency of the process, and maintenance of high accountability, IDFI deems it necessary to include local NGOs in the process of devising the concept. In addition, IDFI recommends ensuring involvement of civil society organizations in the process of creating methodology of monitoring of prosecutor's work, assumed under activity 5.1.5.

IDFI recommends taking activity 5.1.7 out. This activity presumes clear differentiation in authority between regional prosecutors and their deputies in 2017. This is not a commitment that deserves to be a separate activity in the Action Plan.

There are also activities that need to be separated out in order to increase their importance. For instance, under OGP 2016-2017 Action Plan the Prosecutor's Office took an obligation to develop local councils, which will be directed at preventing crime in the regions. IDFI thinks that this activity should be separated and added to 5.1 results. This way more reporting will be ensured.

The activities 5.2.1 and 5.2.2 deal with improving norms regulating ethics, conflicts of interest and incompatibilities, and the mechanism of their execution. It is preferable to indicate specific norm and internal regulation, which is planned to be improved under this activity. Additionally, activity 5.5.2 includes cooperation with NGOs and conducting one working meeting with them, which is a best practice of good governance and should be done in any case. Therefore, IDFI recommends removing activity 5.5.2 from the Action Plan.

The first recommendation of OECD-ACN fourth round report talks about development of anticorruption measures in sectoral ministries. The recommendation emphasizes individual corruption risk evaluation in various agencies. To improve public trust and strengthen the principles of good governance, IDFI recommends creating transparency and integrity strategy and action plan for the security sector, where important issues for this sphere will be discussed. This strategy and action plan should include evaluation of risks, implemented under OECD-ACN recommendation.

Priority VII. Ensuring transparency and decreasing corruption risks in public finance and public procurement

Preventing corruption in public procurements is one of the main pillars of the Anti-Corruption Action Plan. Reflection of a part of OECD-ACN fourth round recommendations in the 7th chapter of the Action Plan should be positively regarded; however, some of the recommendations were left out of the Action Plan.

Apart from decreasing the number of procurements conducted with the single course procedure, IDFI thinks that activity 7.1.2.1 should also include reducing list of exemptions from Public Procurement Law. The 7.1.3, 7.1.4, and 7.1.5. activity indicators should be improved and specified (when indicator includes an increase, it is necessary to provide concrete numbers and measurements). From the current Action Plan it is not clear whether the dispute resolution board will be separated from the State Procurement Agency, as recommended by OECD-ACN.

Other important recommendations that were not included are: starting formal negotiations to sign the WTO Agreement on Government Procurement; reflecting the procurement of utilities in the Public Procurement Law or adopting a separate law regulating it; the possibility to appeal any decision

regarding public procurement. Due to the importance of these recommendations, it is necessary that State Procurement Agency includes them in the Action Plan.

In sphere of public finance, activity 7.2.1.2 includes revision of the law, and making changes based on comments on practical problems. IDFI thinks it is unclear how the Ministry of Finance is going to collect and study comments on the law. Taking into account that no mechanism exists to study impact of regulations, which includes a study of how a law works in practice, it is hard to imagine how the agency will conduct this process. In addition, the monitoring of the previous Action Plan includes phrases like 'if applicable' and 'if necessary' that leave the agency free to avoid any clarification about why certain activities were not carried out. Consequently, this activity should not be included in the Action Plan without specification.

7.2.2. and 7.2.3. result indicators are too vague and cannot be used for monitoring without a detailed descriptions.

Priority VIII. Prevention of corruption in customs and tax system

The activity 8.1.2. of the Revenue Service includes planning and implementation of a tax audit. However, specific activities only involve adoption of quarterly plans. It is possible that the agency presumes implementation together with planning, however, it is still necessary to clearly show this link in order for subactivities to be in line with the main activity.

The same issue is present in activity 8.1.3., which includes planning and implementation of tax control, but only includes making an inventory of assets in its subactivities.

The indicators for results 8.1., 8.2., 8.3., 8.6. and 8.7. simply state that certain variables will increase. IDFI considers that formulating indicators in this way impedes their measurement and hinders the monitoring process. These indicators need to be specified with baseline data.

Activity 8.3.1. indicates that monitoring of employees is a permanent process. IDFI finds no purpose in having this as separate activity in the Action Plan; moreover, it is not clear how this activity will be monitored. If the activity is kept in the action plan, the agency should make it more concrete and compatible with monitoring. The same can be said for activity 8.3.3.

The first part of activity 8.6.1. contains three subactivities for both years of the Action Plan. IDFI thinks that this activity can be broken down even further by determining specific time frames that will ultimately aid the monitoring process. The same can be said for activity 8.6.2.

Priority IX. Prevention of corruption in the private sector

Efforts to prevent corruption in the private sector were launched with the 2015-2016 Action Plan. It was expected that the new Action Plan would take these efforts to the next level, however, it ended up

reiterating the previous action plan, with no new measures being introduced and some activities being excluded altogether. The Action Plan does not take into account recommendations related to business integrity of the OECD-ACN fourth round report. Namely, the Action Plan does not include a risk assessment of business integrity, and training of companies and public servants about these risks and their prevention. The result 9.1 should include an activity on studying international practice with regard to prevention of corruption in the private sector. One of the directions of this study could be exploring the risks to business integrity and the ways to fight them, and preparation of relevant recommendations, which could be used as the basis for new activities during the renewal of the Action Plan. The Secretariat of the Intergovernmental Anti-Corruption Council and the Analytical Department of the Ministry of Justice could be responsible for this study.

In addition, the indicator of the result 9.1 includes the study of the risks associated with business integrity; however, the activity includes only awareness raising, which is not in line with the goals of the indicator, and would create problems during the implementation and monitoring process. The parts of the indicator – “the number of events on business integrity has increased; the number of participants has increased” – is problematic because it is unclear against what the increase is measured. In order to ensure better measurement and monitoring, it is preferable to put concrete numbers in the indicators. The same remark could be extended to indicators of results 9.2 and 9.3. Cases when an increase or decrease can be measured are acceptable; for instance, “number of unprofitable state-owned enterprises has decreased”. Additionally, the Competition Agency should clarify what its training will be about in activity 9.2.1..

The Action Plan does not include a component of strengthening the business ombudsman. According to the new Action Plan, this institution will be abolished, which should be assessed negatively. The OECD-ACN recommendation, which involved increasing the authority of the business ombudsman to promote business integrity, was not adopted. The office of the business ombudsman should act as an important channel in the relationship between the state and business. The involvement of the office in the legislative process should be increased; it should provide the private sector with important information about changes and initiatives. In addition, based on conclusions and recommendations of the business ombudsman, the Action Plan should be amended to include new activities. Therefore, IDFI thinks that the omission of the business ombudsman from the Action Plan will weaken business integrity.

The indicator of result 9.3 - “suggestions about appointing managers in enterprises via open recruitment were developed”, does not include a relevant activity. Consequently, it is unclear how this part will be implemented and evaluated. The next part of the indicator – “increase of positive attitudes among business representatives about low rate of corruption in the business sector” is vague and makes it impossible to measure and evaluate. Therefore, National Agency for State Property should review and improve these activities.

In November 2016, IDFI and GYLA prepared a joint policy paper about the management, transparency and accountability of state-owned enterprises. IDFI recommends the findings of this policy paper be reflected in the 2017-2018 Anti-Corruption Action Plan.

The fact that the new Action Plan does not include prevention of conflict of interest of former state officials moving to the private sector is a problem. While the previous Action Plan included only the study of international practice in this area and development of relevant recommendations, the new

Action Plan omits this issue altogether. The new Action Plan does not reflect the OECD-ACN recommendation on placing limitations on the ‘revolving door’ phenomenon and developing relevant legal executive mechanisms.

Priority X. Prevention of corruption in health and social sector

The activities and indicators of result 10.1 do not correspond to each other. The wording of indicators should also be improved. Indicator 10.2 is vague and cannot be used in the monitoring process. The Social Service Agency of the Ministry of Labor, Health and Social Affairs of Georgia should correct these flaws.

According to activity 10.3, the Ministry of Health is responsible only for production and distribution of leaflets. Such an activity is too weak to increase public awareness, and its indicator is difficult to measure. The “awareness of public is increased” without specific measurements and variables cannot function as an indicator. Moreover, “low level of participation and interest of the public” indicated in the risks is irrelevant regarding distribution of leaflets. Low public interest cannot be used as a risk factor in an activity of this kind. No indicators are specified in relation to raising the standards of adoption.

It is preferable, that the Ministry of Health adopts an activity aiming at improving the reporting for the universal healthcare program. Additionally, it is recommended that the Ministry of Health takes the obligation to fulfill the resolution #229 of the Georgian government and produces reports and organizes public discussion about them.

In order to ensure more transparency of expenditure data, the Ministry of Health should publish infographics and other forms of data visualization on expenditures; this should be reflected in the Action Plan. In addition, the Ministry should take the responsibility to produce situational analysis and needs evaluation about corruption risks in the universal healthcare program.

Priority XI. Prevention of political corruption

The OECD-ACN and GRECO third round evaluations have been finished. The fourth round report was already published during the creation of the Action Plan. Therefore, result 11.1 and its indicators that include fulfilment of third round recommendations is outdated and needs to be modified for the new Action Plan. Taking into consideration that different rounds of GRECO reports deals with different issues, it is preferable to include partially implemented or neglected third round recommendations.

The following has to be taken into consideration: activities 11.1.1. and 11.1.2. are about harmonization of the Georgian election code and law on political parties; therefore, it is better to combine these two activities to avoid duplication.

It is unclear how to measure the indicator for the result 11.2 – “raising of the public’s positive attitude towards low incidence of corruption in political parties”. This indicator should be changed.

The fourth recommendation of GRECO third round report, which was evaluated as partially fulfilled in the last evaluation report,¹ should be included in the Action Plan. This recommendation deals with the prevention of using administrative resources during elections. It is necessary to include this issue in the Action Plan.

The eighth recommendation of the GRECO third round report deals with the creation of an independent mechanism for financing of political parties in the State Audit Office. According to the last evaluation report, this recommendation was fulfilled only partially.

According to the latest assessment report, this recommendation was partially fulfilled. Therefore, it is necessary to reflect it in the new Action Plan. Taking into account that the State Audit Office does not have any commitments in the new Action Plan, the Anti-Corruption Council should ensure effective communication with the State Audit Office. If this is not possible, a relevant explanation should be presented at the nearest Council meeting.

Given that recommendation 9 of the GRECO third round report was also only partially fulfilled, it should be carried over to the new Action Plan. This recommendation involved using effective and proportionate sanctions against the subjects of Election Code, Law on Political Unions, and the Code of Administrative Offenses. The same applied to recommendation 10.

Therefore, IDFI believes that the GRECO third round report has not been properly assessed and reflected in the new Action Plan. This shortcoming must be eliminated before the new Action Plan is adopted.

Priority XII. Prevention of corruption in the Ministry of Defense

Result indicator 12.1 and activity 12.1.1. of the Ministry of Defense did not correspond to each other and need to be further elaborated. Specifically, the optimization and structural change activities are not clearly indicated, and it is too vague what is meant under ‘concept base’.

Activity 12.3.1. has an ongoing nature: the agency is involved in the parliamentary oversight and presents reports to the Georgian Parliament. IDFI thinks that this activity does not change the existing environment and should be taken out from the Plan.

Result indicator 12.4 does not match the activity. It is not clear what is planned to be achieved by ‘structurally reorganizing the military police’.

Priority XIII. Prevention of corruption in regulatory institutions

Result 13.1 presented by the Georgian National Communications Commission is vague and does not include directives for changes in concrete legal acts. In addition, activities 13.1.1. and 13.1.2. repeat activities from the previous Action Plan. Contrary to the previous Action Plan, it is not indicated how

¹ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806cc315>

the norms regulating hiring, promotion, and dismissal in the Georgian National Communications Commission would be improved and how the system of salary bonuses would be implemented. The current formulations is unclear about the basis, on which changes should be made. Taking into account that the Commission plans to implement these activities in 2017, IDFI thinks that the Commission should have a more concrete view regarding those issues.

It is preferable that activity 13.2.3. detail the timeline of drafting legislative acts.

Activity 13.2.4. of the Georgian National Energy and Water Supply Regulatory Commission is general. It does not clarify, which norm of administrative proceedings will be improved. In addition, activity 13.3.1. of the Communication's Ombudsman includes only awareness rising campaign in 2017; activities about increasing transparency of the Public Defender of Consumers are not present.

Activity 13.3.2. of the Energy Ombudsman includes preparation of legislative amendments and their introduction to the Parliament; however, it is not clear why amendments prepared in March should be discussed by the Parliament in September.

Activity 13.3.3. does not clarify how the qualification of employees will be increased and the planned trainings will be about.

Activity 13.3.5. should be made more specific about which organizations and conferences the Energy Ombudsmen will cooperate with.

Priority XIV. Prevention of corruption in local self-government

OECD-ACN fourth round report underscores the importance of the inclusion of local self-governments in the Anti-Corruption Action Plan. This initiative is timely because the corruption at the local level was emphasized by NGO's and the State Audit Office. Consequently, we think that the obligations of local self-governments after the previous Action Plan should be more broad and important.

The 2015-2016 Action Plan included three cities: Tbilisi, Rustavi, and Telavi. Under the new Plan, only Rustavi and Telavi have obligations. Due to the importance of municipalities in the Anti-Corruption Action Plan, IDFI thinks that Tbilisi Municipal institutions with their obligations should also be included in the new Action Plan. Moreover, Tbilisi is included in the new Anti-Corruption strategy, where it is explained that these three largest self-governing cities were specifically chosen for the initial stage.

Priority XV. Prevention of corruption in sport

IDFI welcomes the addition of new priorities in the Anti-Corruption Strategy and Action Plan; especially, measures taken to prevent corruption in sports and inclusion of the Ministry of Sport.

However, the priority indicator is so general that it makes it effectively impossible to measure and control. Moreover, the agency indicated ineffective interagency communication as one of the risks, while one of the activities is to promote effective interagency communication. In this way, the agency warns us in advance that fulfilling this commitment might fail. In addition, it is preferable to have the minimum number of meetings of working group specified in the activity 15.1.1.. The adoption of the draft law is not indicated in the activity 15.1.3., which makes it ineffective, because only drafting a law without adopting it is wasted effort.

Activity 15.2.2. only includes commitment to start negotiation about joining International Sport Integrity Partnership. This activity precludes the possibility to measure any concrete result.

II. Criminalization, identification and prosecution of corruption

A concrete number of professionals should be included in activity 1.3 for the State Security Service. In addition, in order for the OECD-ACN recommendation to be reflected, it is necessary to put a requirement for retraining of newly appointed investigators and prosecutors. Additionally, the OECD-ACN report indicates that there is no legal exception for shielding legal entities from liability, which would take into account effective internal controls and behavior standards. However, the monitoring group found that the prosecutors took this into account. Hence, to avoid abuse of this discretion by prosecutors, corresponding guidelines or legal acts should be adopted. The textbook for investigating and prosecuting corruption committed by legal entities should reflect this topic. The proposed Action Plan did not include renewal of the textbook.

The Action Plan does not include the revision of the norms of the criminal code that would ensure the autonomy of the liability of legal entities.²

Increasing the transparency of the Anti-Corruption agency retraining of employees alone makes activity 3.3 ineffective. The increase of transparency should not be understood only in terms of effective PR and communications. Additionally, the activity does not indicate what specific activities the employees will participate in. Consequently, IDFI thinks that transparency will not be achieved with this activity.

The OECD-ACN recommendation 17 on ensuring proportionality in punishment for bribery and recommendation 19 on bribing foreign citizens are not included.

Prevention of corruption in infrastructure projects

A significant part of the OECD-ACN report is devoted to the prevention of corruption in infrastructure projects. The report indicates that infrastructure projects are characterized by high value contracts. The main directions are development of municipal, energy and transport infrastructure. This direction has many shortcomings that could create risks of corruption. Reports from the State Audit Office and

² OECD-ACN fourth round report, liability of legal entities for corruption, conclusion, p. 104

concrete cases are used to illustrate this issue; the former frequently point to simplified procurement as the main problem in case of large projects.

IDFI thinks that the chapter of OECD-ACN report about prevention of corruption in infrastructure projects should be analyzed in detail, and the Secretariat of the Anti-Corruption Council should communicate relevant problems and recommendations to responsible agencies (Ministry of Regional Development, State Procurement Agency, municipalities), and reflect them in a separate chapter or in relevant parts (e.g. section about public procurement).

IDFI's General Recommendations:

- Reflect OECD-ACN and GRECO recommendations to the maximum extent possible in the Action Plan. If necessary, the Secretariat should hold an ad hoc working group meeting and give the opportunity to responsible agencies to give explanations on international recommendations that have been left outside the Action Plan.
- An analytical document should be prepared by the Secretariat, before the Anti-Corruption Council meeting where strategy documents are approved, that will describe the Action Plan development process, how the OECD-ACN and GRECO recommendations were reflected in the Action-Plan, which recommendations were not fulfilled, and why. This document should also describe how past experience was used to develop the new Action Plan.
- Improve problematic indicators of the Action Plan according to SMART (Specific, Measurable, Assignable, Realistic, Time-related) criteria.
- Review and adapt risks to Action Plan activities (risks and activities should not coincide; risks should be justified).
- Connect goals with activities in problematic parts, to avoid setting formal activities by agencies which is not supported by relevant goals (for example, increasing transparency only by retraining in communications, or increasing awareness by distributing leaflets).
- Combine similar activities that serve to only increase the number of events.
- General commitments should be specified for future monitoring.
- General statements, such as 'if necessary', 'if applicable', etc. should be eliminated from the activities.
- For commitments envisaging legislative amendments, the final action should be the adoption of these amendments; otherwise, the activity becomes pointless.
- Specify the number and area of activities aimed at increasing the qualification of employees.
- Commitments for the prevention of corruption in infrastructure projects should be reflected in the Action Plan, taking into account OECD-ACN fourth round recommendations. The Secretariat should communicate with relevant agencies that are necessary for action, and invite them to the Council.