IFES Opinion: Anti-Corruption Strategy for 2018-2020

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According to the Law "On Prevention of Corruption", one of the tasks of the National Agency for the Prevention of Corruption (NAPC) is to develop an Anti-Corruption Strategy and monitor its implementation in Ukraine. The Strategy should outline principles of government anti-corruption policy based on analysis of corruption and previous anti-corruption strategies.

The most recent Anti-Corruption Strategy was adopted in 2014 and expired in 2017. The NAPC developed a new Strategy for 2018-2020 which was approved at a meeting of the Cabinet of Ministers on April 25. On April 27, the Cabinet submitted a draft Law “On Anti-Corruption Strategy for 2018-2020” to the Verkhovna Rada for its consideration. It calls for approving a new national Anti-Corruption Strategy. However, on May 16, the Verkhovna Rada’s Committee on Corruption Prevention recommended the Rada return the draft law to the Cabinet for further revision.

Because the draft Anti-Corruption Strategy is partially aimed at preventing and counteracting corruption in political finance area, the International Foundation for Electoral Systems (IFES) in Ukraine shared its recommendations on improving the draft with the NAPC. However, discussion of the draft Anti-Corruption Strategy was not transparent and inclusive and the short timelines made it difficult to thoroughly consider all of IFES’ proposals.

Following analysis of the draft law on the Anti-Corruption Strategy, IFES noted that only some of its recommendations were considered. The draft Strategy included a number of activities in line with the Group of States Against Corruption (GRECO), Venice Commission and the Organization for Security and Cooperation in Europe’s Office of Democratic Institutions and Human Rights (OSCE/ODIHR) recommendations which could contribute to effective implementation of political finance reform. They include:

- Harmonizing procedures of party finance and campaign finance in all national and local elections;
- Clarifying how political parties may use public money allocated from the state budget;
- Introducing effective, proportionate and dissuasive sanctions for violations of political party and campaign finance rules;
- Streamlining administrative liability procedures for political party and campaign finance violations; and,
- Clear delineation of powers between political finance oversight bodies.

However, overall structure and approach of the Anti-Corruption Strategy section on political finance remain problematic. The primary flaws are:
1. Political finance issues included in the draft Anti-Corruption Strategy are reflected in the section “Prevention of Corruption in Representative Bodies” that covers other non-related activities. In IFES’ opinion, political finance corruption issues merit a separate section that would allow better understanding of their importance and their role in the whole Anti-Corruption Strategy.

2. The Anti-Corruption Strategy barely includes analysis of ongoing developments and the most acute problems associated with political finance. Problems highlighted in the section mostly do not relate to money in politics (for example, the discrepancy between property declared by Members of Parliament and their incomes and the lack of effective legislative regulation of lobbying) or are too insignificant for inclusion into the Strategy (inaccurate information about political party location). The section also does not adequately address important problems, such as non-disclosure of real incomes and expenditures by many political parties, a cumbersome reporting system, the NAPC’s inability to effectively investigate and document violations of political party finance requirements, weak and ineffective sanctions and the excessive cost of election campaigns.

3. The objective of this section is vague and narrow. It contains few tasks set out by the NAPC such as strengthening financial discipline of political parties and adherence to established procedure for receiving donations by political parties but fails to outline the overall focus of efforts in this area. The section does not underline the need to limit influence of wealthy private donors on political party and candidate activities which is one of the key goals of political finance reform.

4. Although several activities addressing political corruption prevention are important, they do not relate to problems mentioned at the beginning of the section. Therefore, the selection of such activities seems arbitrary. Furthermore, the relevant section of the Strategy lacks important recommendations including those highlighted by GRECO, the Venice Commission and the OSCE/ODIHR, in particular:

   - Providing political parties and candidates in elections with the possibility to submit their financial reports through an electronic reporting system administered by the NAPC;
   - Setting limits on candidate own costs that could be transferred to their election funds;
   - Regulating spending of ‘third parties’ who support activities of political parties and candidates on their own behalf;
   - Relaxing requirements for companies authorized to administer external independent audits of political parties;
   - Considering specific mechanisms to decrease the cost of election campaigns; for example, setting campaign spending limits and restricting political advertising.

Although some of IFES’ proposals that could improve the quality of this document have been reflected in the latest draft Anti-Corruption Strategy, regulation of political finance corruption remains flawed and requires significant revision before it is approved by the Verkhovna Rada.
Particular attention should be given to comprehensive analysis of key regulatory problems and establishing linkage with their defined objective and the proposed activities.

IFES emphasizes that NAPC should continue its work to improve the Anti-Corruption Strategy involving all stakeholders, including state authorities, civil society and international organizations while keeping reasonable timelines to ensure open discussion and consideration of all proposals.

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