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A4U Guidelines N2 Note for Officials of Central Executive Bodies, tasked with Preparation of quarterly/annual Reports on the Implementation of the AA/DCFTA

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Guidance note for officials of central executive bodies, tasked with preparation of quarterly/annual reports on the implementation of AA/DCFTA

1. The framework for preparation of quarterly/annual reports is laid down under point 12. of the Procedure established by Resolution 447 (31.5.2017) of the Cabinet of Ministers of Ukraine, as follows: *“The comprehensive report is prepared in the form that consists of the following components:*
 - *a list of activities within each task, which have been performed during the reporting period, including the implementation of decisions of the bilateral bodies established in accordance with the Agreement;*
 - *information on the progress in execution of indicators in the reporting period;*
 - *information on the results of cooperation with the EU partners and other international partners in the event of financial and/or technical assistance for implementation of the Action Plan;*
 - *proposals for updating the Action Plan, if necessary”.*
2. The required rhythm of production of quarterly/annual implementation reports will be intensive and regular, with finished products to be forwarded to GOEEI at the latest on 10 April, 10 July, 10 October and ... January (*this date to be fixed taking account of the two-week turn-of-year holiday period*). The short period between end of each quarter and presentation of the drafted report for signature by the Deputy Head of your central executive body (CEB) must be used with maximum efficiency, as the report will have to incorporate all developments which took place until the close of business on the last day of preceding quarter, while allowing time for internal consultations and clarifications (where necessary) plus for the actual drafting.

This means that every official designated as drafter of implementation report should develop and maintain a network of working contacts with all key staff tasked to contribute to the AA implementation within his/her CEB, as well as with key staff of those other CEB which are listed as its co-operating bodies for specific tasks under Action Plan 2017-2020. Such an approach usually does help in generating timely provision of raw data for procession in the report, it also facilitates fast handling of requests for additional information or for clarification of the data received.

3. After receipt of raw data from other CEB contributors, **the drafter of report should first do a structured scrutiny of the information on activities performed during the reporting period:**
 - is all information pertinent to the tasks defined in the relevant part of the Action Plan?

- is it supported by documents confirming the work done? are references to such documents made available, can the documents be accessed online or obtained on request from the authors?
- has the declared work been done within the planning deadlines fixed in the Action Plan? If the specific implementation plans elaborated at the level of CEB have interim deadlines for completion of specific implementation steps (eg. final draft of law at the level of lead CEB department, deadline for intra-ministerial consultation of draft, deadline for public consultation, etc.), have such deadlines been met/respected? If any planning deadline is exceeded, is explanation of the reasons available and are there proposals for action to remedy such situation?

If there is a negative response to any of the above questions, the drafter of quarterly report has the task of requesting additional necessary information and clarifications, to be submitted in writing by a specified short deadline of maximum 2 business days.

4. **What about the documentary evidence of the implementation progress? Generally, for the legislative part of the implementation process, such documents will be:** the record of the outcome of intra-ministerial consultation on the draft and the Minister's written decision approving the draft, the information on the process of public consultation and on the intra-CEB handling of opinions/proposals received under such consultation, the table illustrating the processing of comments received by the lead CEB under inter-ministerial consultation, the written evidence of the degree of involvement of EU nationals in the drafting process, the table of concordance and the accompanying formal statement of EU compliance, finally also the Minister's approval of the final draft and his/her decision to submit the legislative proposal to the Cabinet of Ministers.

As to the next implementation stage: the application and enforcement of EU-aligned legislation, of particular importance will be documentary evidence on institutional capacity. It should contain relevant information on: reorganization of existing institution(s) and/or setting up of new institution(s), on additional recruitment or redeployment of staff, training of staff, budgeting decisions, procurement/installation/testing of equipment, capacity to develop and maintain communication activities targeting the end users of the EU-aligned legislation. Evidence will usually be based on the interim project tracking reports and on final progress reports adopted/approved at an appropriate decision-making level within the lead CEB, as well as on formal governmental decisions on the increase or redeployment of human/financial resources.

5. **The next step in production of the report should be the analysis of data supplied on the "results of cooperation with EU partners and other international partners in the event of financial and/or technical assistance for the implementation of the Action Plan"**. As the focus is on results, careful scrutiny is needed:

- information on the process aspects (eg. meetings held, missions completed etc.) is irrelevant for the measuring of outputs/outcomes, and should not be included in the descriptive column of the scorecard;
 - information on financial and/or technical assistance provided by partners from outside the EU should only be included in the descriptive column of the scorecard, if there is a demonstration (written evidence) of a causal link between that assistance and a concrete, measurable growth of Ukraine's institutional capacity to implement/enforce a specific area of AA/DCFTA. As to such assistance from the EU partners, it is generally deemed to help in enhancing Ukraine's AA implementation, but also in these cases outputs and outcomes must be shown – so a written evidence of causal link between EU inputs and Ukrainian results must be available;
 - information on cooperation with EU experts, intended as basis for decisions whether the relevant planning/scorecard milestone has been reached (milestone defined as “*опрацьовано с експертами ЕС*”), should be analysed through the parameters of a separate detailed guidance (Interpretation and use of the notion “*опрацьовано с експертами ЕС*” (eg. prepared, developed with EU experts)), which is provided by GOEEI as annex to the present guidance note.
6. Each annual report (in specific situations also, sometimes, quarterly report) should be used as an opportunity to take a critical **look at the output and outcome (result) monitoring indicators used in the Action Plan and in the scorecards**. A following simple checklist can help in structuring the assessment:
- is the indicator relevant, i.e. is it linked to the objective to be reached? Are we measuring the right thing?
 - are the sources of data reliable, do these sources provide the requested frequency of publication/release of data? Are the data supplied sufficient for reliable measurement?
 - Are the methods and instruments for the collection, storage and processing of data sound and reliable? Is the cost of collection under control and proportionately low compared to the overall cost of an AA implementation measure?

Conclusions from such indicator assessment should be formally channeled into discussion at appropriate forum within the leading CEB, with view to the elaboration of formal proposals on adaptation – where necessary – of the monitoring indicators. These formal proposals for change should subsequently be submitted to GOEEI for further handling in line with the procedure foreseen in Resolution 447.

7. **While the GOEEI has the formal responsibility for defining in the information system the status of each implementation task, each CEB producing a draft quarterly/annual report has to use this opportunity for**

internal monitoring and for generating information that can be used at this CEB's management level, as well as for inserting into the scorecard the information on the progress in execution of indicators in the reporting period. It will be fairly straightforward to define situations where implementation remains on track (planned activities and outputs delivered within the planned deadline and in planned volume), and the same goes for cases of clear underperformance (planning deadlines exceeded, outputs significantly below planned volume). It is less clear with regard to situations "in the risk zone", whose status will be marked in the information system with yellow coloring flashing the risk.

This intermediate status level must be precisely defined and equipped with a procedure allowing the identification of risk and activation of "early warning". As a rule of thumb, to be used in the same way by all CEB and by GOEEI, a check whether the implementation project is at risk should be made 6 months before the important interim deadline or the final deadline of the project, and in any case no later than 3 months before such respective deadlines. Such a check requires simple internal monitoring arrangements within each implementing CEB. These arrangements must rely on a precise project planning (i.e., ministry-level AA implementation plans), which includes identification of all deliverables critically important for successful implementation, the sequencing of these deliverables (where the achievement of one is the condition for completing the work on the next deliverable in a sequence), the setting of a deadline for each such deliverable, and the definition of the targeted outputs. CEB officials tasked with internal monitoring should – towards the end of each successive quarter – take an advance look at achievability of deadlines/outputs planned to be reached within the next 3 to 6 months. Should the problems identified (for instance, lack of expert(s) to draft a law, budget allocated for implementation significantly lower than the initially budgeted amount, delays in the procurement process, unexpected IT-related implementation difficulties) put at risk the timely achievement of specific implementation milestones, the monitoring officials would have to qualify it as a project in the risk zone and signal it accordingly to the political level in their CEB and to GOEEI as well.

8. **The information to be put in the descriptive column of the scorecard** must include:
 - a. the listing of key activities undertaken to implement an AA task
 - b. the references/links to documents which contain evidence of activities completed / results reached in the implementation process
 - c. the short description of implementation problems encountered (where applicable) and of remedies considered/launched at the CEB level
9. **The monitoring and reporting work in CEB can result in proposals for updating the relevant section of the AA Action Plan.** Resolution 447 under its paragraph 6. contains an exhaustive list of three grounds for making such proposals: amendments to the AA, decisions of AA bilateral bodies, and – importantly – changes in the scope of tasks required for the implementation of an EU legal act. As to the proposals resulting from the first two among these

three grounds, there is no need to deal with them only when submitting a quarterly or annual implementation report; they are the consequence of decisions which were co-authored by the CEB in charge of a specific part of AA, so this CEB knows exactly what should next be adapted/changed in the Action Plan, and the proposal for such adaptation is just a procedural update serving to align the Action Plan with the content of decisions already made; it can and should be done at the earliest opportunity after entry into force of an AA amendment of a decision of an AA bilateral body. It is different with regard to the third case: "change in the scope of tasks". Such change can be made necessary by the evolution of the EU secondary legislation or of the delegated and implementing acts of the European Commission. It may be needed in the light of conclusions drawn from the experience made in the process of AA implementation. The proposals resulting from the relevant needs assessment made by the lead CEB should be sent to GOEEI as a separate document with the cover letter signed by the Deputy Head of CEB, whose competence includes European integration issues; this separate handling can use the electronic format of the Action Plan. *Additional remark: it may be unavoidable to handle and accept the extension or postponement of implementation deadlines resulting from Ukraine's AA obligations and from the Action Plan. Normally, such changes of deadline should be entered in the Action Plan, in line with provisions of § 28 of the Rules of Procedure of the Cabinet of Ministers of Ukraine, as laid down in Resolution 447. It would be appropriate to handle the proposals for such changes in exactly same way as the one fixed in paragraphs 5, 6 and 12 of the procedure on planning, monitoring and evaluation established by Resolution 447.*

10. The finalized draft contribution to the AA quarterly/annual report must obtain the approval and signature of the Deputy Head of CEB, whose competence includes European integration issues. The contribution, duly so signed, must be forwarded electronically to GOEEI before the close of business on the 10th day of the month following after the reporting quarter/year.

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