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Cross-cutting problems in the NIS: corruption of anti-corruption policies and human rights protection

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Assessing National Integrity Systems in the G20 and Beyond

June, 17-18 2014 r.



MAIN TYPES OF THREATS TO HACR RESULTING FROM CORRUPTION

- **Equality and non-discrimination** (e.g. concerning access to public goods and services)
- **Fair trial and effective remedy** (e.g. vulnerable groups and whistle-blowers protection)
- **Rights to political participation** (e.g. electoral corruption or unfair lobbying)
- **Right to good governance** (e.g. abuse the right to information or the legislative process)

e.g. Corruption and Human Rights: Making Connection (2009) or Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities (2010) by TI and International Council on Human Rights Council



MAIN TYPES OF THREATS TO HACR RESULTING FROM ANTI-CORRUPTION POLICIES

- **Right to fair trial while investigating corruption:**
 - ✓ respecting presumption of innocence
 - ✓ guarantees against self-incrimination
 - ✓ right to dignity
 - ✓ right to privacy
 - ✓ right to the private property

- **Rights to political participation**
 - ✓ right to participate in decision-making processes
 - ✓ right to petition, making complaints and requests to public bodies, access to information



WHEN THE RISK VIOLATION OF HACR BY ANTI-CORRUPTION MEASURES IS HIGHEST – SOME HYPOTHESES

Political system – systems (e.g. authoritarian or totalitarian) which by definition don't respect human and civil rights, might be effective even in curbing corruption, but we shouldn't expect they will do this taking into account these norms.



Example:

Violent anti-corruption crusades during communist times.



WHEN THE RISK VIOLATION OF HACR BY ANTI-CORRUPTION MEASURES IS HIGHEST – SOME HYPOTHESES

Political competition – political parties and leaders struggling for power often use corruption as a training ground to prove they can resolve the problem of corruption better than their opponents, often by proposing dangerous “wunderwaffes”. Be aware then of elections, on-going scandals, and overheated debates.

Example:

Polish Act of Law of 2005 on the Lobbying activity In Legislative Process – made to control lobbying, used to limit public participation.





WHEN THE RISK VIOLATION OF HACR BY ANTI-CORRUPTION MEASURES IS HIGHEST – SOME HYPOTHESES

Moral panic – debates over corruption tend to become subject of strong public concern. It is good, but only to some extent. When they last long and in addition antagonize societies (e.g. is directed against particular groups), are full of disparities, sudden eruptions and turns, then they might become the source of moral panic and threat to HACR.



Example:

Polish ACA – Central Anti-Corruption Bureau – a tool for witch-hunting



WHEN THE RISK VIOLATION OF HACR BY ANTI-CORRUPTION MEASURES IS HIGHEST – SOME HYPOTHESES

Conflict of values – the fact is that the concept of human rights is inconsistent. Paradoxes inherited in it might also result in real dilemmas.

Example:

Better whistleblowers protection (fair trial priority) or limiting other rights – access to information, personal data protection.





WHERE THE FOCUS ON HUMAN RIGHTS WOULD BE PARTICULARLY USEFUL WITHIN NIS METHODOLOGY?

- **Foundations** / politics – analysis should also assess how much given governing regime respect HACR and if it in general doesn't abuse them while designing anti-corruption policies.
- Every “public / governmental” pillar should ask guiding questions about respecting HACR and **in particular: judiciary, law enforcement, anti-corruption agencies and ombudsman pillars.**
- Maybe **negative points?**



WHAT CAN WE DO?

- Advocate for making human rights as an obligatory element of RIA systems (Human Rights Regulatory Impact Analysis)
- Advocate for making assessment of corruption risks as an obligatory element of RIA systems



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Thank you!

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