

THE NATIONAL ANTI-CORRUPTION STRATEGY OF GEORGIA

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Preamble

Effective management of public services implies well-organized and law-abiding functioning of the body oriented toward proper implementation of imposed tasks with principles of accountability and publicity duly observed. Neglect of any of the above mentioned principles poses threat to both state and society especially dangerous if self-interest motivated. In such case we deal with corruption.

It is notable that corruption hinders development of democracy and economics in the country, brings down trust of society toward government bodies and impedes establishment of supremacy of law. Thus it's a will of government and citizens of Georgia to timely implement radical changes against corruption.

The present strategy aims at formation of effective state management system as well as activation of legal and public feedback mechanisms in order to prevent corruption.

1. Purpose of the Strategy

Purposes of the strategy are:

- Identification and analyses of conditions conducive to corruption as well as elaboration of mechanisms for their eradication;
- Strengthening of principles of accountability and publicity within public sector, including facilitation of public feedback mechanisms;
- Establishment of supremacy of law including identification of corruption facts and creation of environment conducive to prosecution of lawbreakers in accordance with effective legislation;
- Provision of control by relevant controlling bodies of all three branches of authority and monitoring by society;
- Facilitation of competitive business sector development;
- International integration;
- Elaboration and implementation of action plan based on this strategy as well as coordination and monitoring over its implementation;

2. Preventive Measures

2.1 Structural, staff and office work optimization within public services, human resources management.

It is important to promote structural, staff and office (paper) work optimization. Namely the following steps are to be made:

- Common vision in terms of territorial and local structural units of public services should be elaborated. Number and hierarchy (subordination) of such units should be rational and function-oriented;
- Consequent staffing of this structural units shall be implemented;
- Policy elaborating and implementing functions, as well as regulatory and service functions shall be identified and institutionally separated at the public service. Policy elaborating and implementing institution shall be the ministry of relevant fields;
- The description of employees' positions shall be formed at the public services. They shall be clear and therefore uniform for all public institutions; they should envisage principles of determination-distribution of responsibilities, as well as controlling principles of the supervisor (structural unit);
- For the purpose of awareness on anticorruption program implementation, employees' skills, making information based decision and transference on work results oriented performance, as well as communicating with citizens:
 - a) compulsory trainings and workshops (voluntary is also possible) for public employees shall be periodically (at least 5 days per year) held;
 - b) thematic plans and learning programs shall be prepared for the purpose of raising of qualification;
 - c) the principles of information openness, good faith attitude and assistance, correction of mistakes, as well as the principles of public and civil unit electronic registries shall be implemented;
- It is necessary to stimulate public employees in order to avoid corruption temptation. With this regard noticeable steps have been made forward in the country concerning position compensations, but the possibility of steady carrier development in the public sector also should be mentioned. In terms of these two principles the following shall be determined:
 - a) position rank of public employees. Therefore groundless appointment of a high-ranking employee on a comparably low position is not allowed;
 - b) the unit salary system for relevant ranks and the principles of employment compensation (basic salary, other compensation, etc);
 - c) the rule of determination of staff list of public institutions;
 - d) appointment and service rules;
 - e) social (including pension) as well as other guarantees and allowances of employees;
 - f) unified criteria of effectiveness assessment of employees' activities;
 - g) the categories of public employees (state political official, public employee, official, law enforcement employees, armed forces, diplomatic corps representatives, etc) and different rules and regimes of service shall be defined therewith;
 - h) staff stability of public employees shall be provided in case of change of state political officials;
- To define the so-called "positions especially subject to corruption" and strengthen transparency and monitoring of financial and property declarations of such officials;
- To develop a unified procedures of paperwork;
- To draft a Code of Public Service incorporating the current legislative acts regulating status and activities of the public servants: the Georgian laws on Public Service, on Conflict of Interest and Corruption in the Public Service, on Special State Posts and the relevant parts of other legal acts specifying norms related to status of public servants and social protection guarantees. In addition, the Code should incorporate principles and rules to file financial and property declarations by public servants, examine and verify correctness of the information recorded and react in cases of violations, etc.;

- To unify legal requirements and principles necessary for establishment and operations of legal persons of public law;
- To better apply the General Administrative Code in activities of state agencies. A special attention shall be paid to implementation of different (simple, formal, collective) administrative procedures. For this purpose, it is also necessary to conform procedures related to administrative bodies with the administrative procedures defined by the above Code that are determined in different normative acts. In addition, the ongoing process to define effective appeal mechanisms of administrative acts should be reinforced.

2.2 Increase of Transparency of Activities of the Public Service

One of the preconditions of existence of corruption is improper and non-transparent functioning of the state bodies that creates basis for corrupt deals. In this regard, accessibility of information related to activities of all state bodies, local government or self-government bodies and fulfillment of their responsibilities by the general public is of a prior importance. The public should have the exact information related to functions of different bodies. This information should be passed to the public domain and be easily accessible.

2.3 Establishment of Electronic System of Dissemination of Public Information

It is necessary to develop a source, providing the comprehensive and exact information related to any actions implemented by the state and make it accessible for the general public.

The above is possible by establishment of a unified, official, reliable and constantly updating information system by development of a united information network. In this regard, it is necessary to develop and introduce a unified electronic information network.

2.4 Publicity of Funding Sources of Political Parties

Information related to funding sources of political parties, their amount and expenses should be passed to the public domain. The public should have comprehensive and timely information in this regard. In addition, relevant mechanisms should be in place to examine the information gathered.

2.5 Reform of the Offices of the Inspector General

It is necessary to adopt a special law on Offices of Inspector General to reorganize and establish independent Offices of Inspector General. The Offices of Inspector General should have the necessary political and operational independence and the relevant human, material and other resources to properly investigate activities of the structures including high rank ones within their competence.

One of the main functions of the Offices of Inspector General is to conduct an internal audit of the relevant state bodies.

The authority of Offices of Inspector General should be clearly defined to avoid any overlapping with authority of the Prosecutor's Office and the Chamber of Control of Georgia.

2.6 Strengthening of Ombudsman's Institute

To increase effectiveness of activities of Ombudsman it is necessary to establish a specialized institute of Ombudsman. Authorities of Ombudsman should be expanded and he/she should be granted the right to impose the relevant sanctions on officials in cases of violations of laws or human rights.

2.7 Refinement of Internal and External Audit and Accounting Procedures Applied in the State Bodies

The legislation in force does not define unified principles for carrying out of internal and external audit. Each and every state body should become a subject of internal and external audit. To increase quality of the control procedures it is essential to work out the audit standards for the state sector based on the experience of the International Organization of Supreme Audit Institutions (INTOSAL).

It is also necessary to timely introduce unified accounting standards to make it easier to implement the state and public control. In this regard, the following IFAC standards should be considered: 1) the international accounting standards of the public sector; and 2) operational instructions related reporting procedures of the public sector.

To better manage the state financial resources, it is necessary to introduce the process of participative budgeting and program budgeting.

2.8 Improvement of the State Procurement Procedures and Control Mechanisms

The issue related to state procurement is very important as a big share of the state and local budgets are spent on the above.

On 20 April 2005 the Parliament of Georgia adopted a new law on State Procurement that shall come into force on 1 January 2006. But this sphere still requires a lot of attention and monitoring.

It is necessary to institutionally strengthen the State Procurement Agency and respectively, increase its independence. Namely, currently the State Procurement Agency is a legal entity of public law controlled by the Ministry of Economic Development of Georgia (the head of the Agency is nominated by the Minister and appointed by the President of Georgia) itself being one of the main organizations engaged in the state procurement. Therefore, it should be again considered to re-organize the State Procurement Agency into a regulating agency not controlled by any state body and directly reporting to the President of Georgia (or Prime Minister), the Parliament and the public.

To enforce the new law, the State procurement Agency should work out a special instruction related to the state procurement. It is also advisable to draft the state procurement manual to better inform the relevant organizations on the existing procedures. It is necessary to introduce

an electronic system of the state procurement. The State Procurement Agency should compare and make the relevant analysis of the purchases made and develop the so-called “white” (recommended) and “black” lists.

3. Creation of Competitive Business Environment

3.1 Optimization of Administrative Barriers

A level of corruption in the country and number of corrupt deals mostly depends on existence of excessive administrative barriers and fraudulent practices applied to overcome these barriers. Legal and institutional deficiencies contribute to corruption.

3.1.1 Standardization and Certification

A number of legal initiatives are being currently undertaken to eliminate deficiencies existing in the standardization system. But at the same time it should be also mentioned that old, the so-called SOSTs strictly defining production of goods and their quality are still applied in Georgia. The current system envisages a state participation in all levels of a standardization process. Such approach is unacceptable and shall be considered as a significant impediment to the international trade. Therefore, import of goods not defined in a SOST or for which inspection methods do not exist is very complicated and may be deemed as one of the sources of corruption.

To improve the existing environment it is necessary to clearly regulate a standardization process including technical, sanitary and phytosanitary procedures and timely advise the public on the new procedures. A special methodology for conformity inspection of imported goods and technical regulation should be developed.

3.1.2 Issuance of Licenses and Permits

A special attention should be paid to licenses and permits issued for entrepreneurial activity. It is also essential to exactly define bodies issuing licenses and the relevant basis to issue licenses and permits, the relevant procedures and minimum selection criteria. It necessary to also refine and simplify procedures to issue licenses to support businesses and encourage competition in different sectors of economy.

A list of activities subject to licensing (permits) should be reviewed and optimized. It is advisable to introduce a one-stop shop principle, pursuant to which all documents necessary to get a license (permit) shall be obtained by a license issuing agency. In sectors where the above principle shall be applied the relevant sanctions imposed for the violations detected should be toughened and the right to impose sanctions should be granted to a main regulating agency.

3.2 Further Refinement of Tax Administration

It should be mentioned that adoption and enforcement of a new tax code only can not provide a basis for proper and fair operations of tax agencies. To ensure the above mentioned it is necessary to refine their institutional structure. Therefore, it is necessary to further identify and eliminate deficiencies existing in a tax system. It is clearly understood that both liberalization of taxes and rates and a proper tax administration is important for business support.

Therefore, it is necessary to implement the following actions:

- To maximally simplify rules to meet tax liabilities (completion-filing of tax returns, computation, withholding and transfer of taxes to the budget) and make them less time consuming. The above issue has become more actual since adoption of a new tax code pursuant to which physical persons whose income is not taxed at the source of payment should be deemed as taxpayers.
- To create a comprehensive database of taxpayers. The database will make it possible for officials to establish control over payment of taxes. Any non-standard change should be reported in writing;
- To introduce mechanisms to minimize under-reporting of income;
- To provide access to information related to customs procedures enabling persons to protect their rights and choose the most favorable customs regimes and enjoy the concessions granted;
- To develop mechanisms to encourage competition among businesses and to eliminate introduction of the so-called tax privileges;

3.3 Refinement of Entrepreneurial Legislation

To further develop economy of the country it is essential to provide support to improve corporate management of enterprises. It is recognized that one of the reasons making a business environment unfavorable in Georgia is a lack of a proper legislative base. The European legislative model, on the basis of which the Georgian law on Entrepreneurs was developed, was a step forward. But it should be also mentioned that it does not define many aspects of legal relations related to business. The corporate management concepts applied in developed countries are often misinterpreted or misused in Georgia.

Therefore, it is necessary to make the state policy in respect of a corporate management more intense. At the first stage, it is feasible to draft a recommended code of corporate management and later incorporate it in the relevant legislation as it has happened in many countries.

The above measure can assist to attract investments and better realize rights of the existing investors (shareholders) to further develop business in the country.

4. Institutional Reform of Law Enforcement Bodies

4.1 Refinement of Anti-corruption Legislation

The anti-corruption normative base incorporates various laws and subordinated legal acts, namely: the General Administrative Code of Georgia; the following laws of Georgia: on Public Procurement, on Public Service, on Conflict of Interest and Corruption in the Public Service, on Licenses and Permits for Entrepreneurial Activities, on Legalization of Illegal Income; different laws regulating activities of legal persons of public law; criminal, civil and administrative procedural norms, inter alia, tax and customs legislations, etc.

One of the goals of the above strategy is to analyze and refine the anti-corruption normative base, in other words, it should become clear, laconic (not giving any possibility for misinterpretation), comprehensive to the extent possible and operational. Therefore, it is necessary to make an in-depth review of the above normative base and identify any corruption supportive legal norms. The anti-corruption normative base applied in Georgia should be harmonized with the requirements and principles of the international legislation.

In addition, all actions considered as corruption-related offence shall be treated as such.

And finally, it should be noted that drafting and adoption of the law on Determination of Authorization of Regulating Agencies and Control Implementation Procedures is deemed as one of the most important anti-corruption reforms. The above law shall define the unified rules of inspection for businesses and establish regulation procedures for inspection (audit).

4.2 Judicial and Law Enforcement Reform

One of the main directions of this strategy is to support establishment of a judicial system free from corruption.

Specifics of judicial authority should be considered when planning measures to be implemented to combat corruption. As the courts are bodies of a separate authority, it is necessary to envisage the issue related to high level of judges' independence. In regard of courts of common law, a special attention should be paid to the following issues:

- Increase of remuneration of judges and employees of courts and improvement of their social guarantees;
- Determination of optimal number of judges and selection of qualified personnel;
- Transparency of relations between courts and citizens;
- Optimization of procedures to distribute cases among courts of common law;
- Introduction of a computerized system.

To ensure effective management of the Prosecutor's Office system and participate in appointment and disciplinary prosecution of prosecutors, an independent unit should be established in the system of the Prosecutor's Office – Council of the Prosecutor's Office. In addition, it is necessary to refine appointment procedures and rules to institute a disciplinary prosecution against prosecutors.

It is essential to better define functions of law enforcement bodies, namely the Prosecutor's Office and the Ministry of Interior. It is also necessary to implement the relevant reform in the Financial Police to clearly determine functions and terms of reference of the Financial Police and other law enforcement bodies in order to avoid any duplication of authority.

A Code (Instructions) of Conduct based on the international standards should be worked out for employees of law enforcement bodies.

4.3 System of Witnesses Protection

To detect and investigate violations and ensure security of important witnesses and their families it is necessary to develop and introduce a special protection program in consultation and with assistance of neighboring countries and international organizations.

Legal and real guarantees should be provided to persons and their families who will submit important information and evidence related to illegal actions. The program should make it possible to change identification information (including resident address) of the above persons and their families, provide necessary resources for a certain period of time, to retrain them, etc.

5. Cooperation with International Organizations

5.1 Implementation of Recommendations Provided by International Organizations

Georgia is a member of GRECO and Organization for Economic Co-operation and Development-ACN for Transition Economies (OESD- ACN for Transition Economies). The above organizations shall develop recommendations for member states, implementation of which shall make mechanisms applied for anti-corruption combat more effective.

5.1.1 Group of States against Corruption

The Group of States against Corruption (GRECO) was established pursuant to a decision of 1 May 1999 session of European Council Committee of Ministers. The goal of the Group is to support member states in the anti-corruption combat, receipt and execution of the international instruments through monitoring.

Georgia joined GRECO in 1999. The first round of monitoring was carried out in Georgia in 2001 and resulted in 25 recommendations worked out by GRECO plenary session. It is necessary to expedite carrying out of the relevant reforms to timely implement the above recommendations.

5.1.2 Organization for Economic Co-operation and Development- Anti-corruption Network for Transition Economies (OECD- ACN for Transition Economies)

In 1998 the national governments, non-governmental organizations and international donor organizations initiated establishment of Anti-corruption Network under Organization for Economic Co-operation and Development to share the relevant expertise and experience, improve coordination of the donor organizations and strengthen cooperation between the civil society and government.

On 18 January 2005, 21 draft recommendations were worked out for Georgia at the ACN meeting. The recommendations cover the following issues: the national anti-corruption policy, institutions and implementation, legal framework and criminalization of corruption, transparency of the public service. It is necessary to expedite carrying out of the relevant reforms to timely implement the above recommendations.

5.2 Ratification of the International Convention

5.2.1 United Nations Anti-corruption Convention

In January 2002 the UN General Assembly established a provisional commission to draft the UN Anti-corruption Convention. In October 2003 the commission completed its work and submitted the draft convention that was adopted in Mexico in December 2003. More than thirty (30) countries joined the Convention, thus making it possible to adopt the Convention.

It is necessary to expedite implementation of the relevant procedures to ensure joining of Georgia to the above convention and introduction of mechanisms specified by the convention in the Georgian legal framework to make performance of anti-corruption structures more effective and better use international cooperation for prevention of corruption and response to the corruption-related offences.

5.2.2 Council of Europe Criminal Law Convention on Corruption (CETS #173 and CETS #191)

On 27 January 1999 Council of Europe adopted the CETS in Strasbourg. The above document is also signed by Georgia but the convention has not been ratified so far. As to the additional protocol of the CETS, it was adopted on 15 May 2003 and Georgia is not its member.

It is necessary to timely sign and ratify the convention to establish closer links with the Anti-corruption Group of the Council of Europe and introduce modern anti-corruption standards in Georgia.

6. Role of the Public

6.1 Support to Mass Media Development

The state should encourage: economic and editing freedoms of mass media; professional development of journalists; development of independent investigative journalism and introduction of protection mechanisms for journalists engaged in such investigations; improving mechanisms for exchange of transparent and unbiased information between the state structures and mass media.

For the purposes of anti-corruption combat, a special role should be assigned to the public television that is directly accountable to the public. Therefore, it is vital to facilitate its independence and impartiality.

6.2 Establishment of Consulting Bureaus for Citizens

To decrease a level of corrupt deals between members of the public and the public servants, it is necessary to set up sources providing exact and clear information to citizens. Establishment of information bureaus, where citizens can timely obtain comprehensive and exact information passed to the public domain, can serve the above purpose. In this regard, a special attention should be paid to small and medium businesses as they not always have access to the proper consulting services, especially in regions. Therefore, it is important that such bureaus are established on the whole territory of Georgia.

6.3 Engagement of the Public in the Anti-corruption Combat

To ensure participation of the public in the anti-corruption combat and improve accountability of the state it is necessary to establish the public monitoring structures in the state bodies. The relevant legislation shall define their functions, composition, rights and responsibilities and operational methods. The goal for establishment of the public monitoring units is to increase the level of cooperation between the public service and the public, strengthen transparency of activities of the state bodies, ensure constant monitoring and create a proper operational environment. The public monitoring units shall be authorized:

- To detect and review any violations occurred in the activities of the state bodies and to submit information to the relevant services for further consideration;
- To coordinate activities of the relevant organizations and mass media for the purposes of information exchange and detection of violations;
- To examine and analyze activities of the state bodies and develop the relevant recommendations.

7. IMPLEMENTATION OF THE STRATEGY

7.1. Development of Action Plan of Strategy Implementation

After the adoption of National Anti-Corruption Strategy the Georgian authorities within the period of 2 (two) months shall develop and adopt the Action Plan of Strategy Implementation, which shall comprise all major state agencies (ministries, sub-departmental agencies, regulating bodies, legal entities of public law functioning in the field of education).

Objectives of the strategy shall be achieved through the detailed action plan. The action plan shall define measures to be undertaken, responsible agencies, and timeframes of implementation.

The strategy and an action plan are subject to update when necessary. The report about its implementation shall be presented to the President of Georgia and made public. The report shall reflect the course of implementation of the action plan. The annual conference shall be organized, discussing the report, updating the action plan, and ensuring the political, state, and public support.

It has to be taken into consideration that with respect to the World Bank's Poverty Eradication Program, for the purpose of fulfilling the obligations undertaken by the Georgian side a public opinion poll shall take place with the assistance from the World Bank in the spring of 2006, which foresees the disclosure of mechanisms of corruption deals in Georgia and similar problems within the agencies. This mechanism shall contribute to the reduction of the corruption level existing in the country and disclosure of patterns of corruption relations, including new possible schemes that shall be further taken into account in the process of updating the action plan. Similar researches shall ensure the efficiency of the strategy and its consistency with the reality on the permanently updating basis.

7.2. Coordination, Monitoring, Communication

7.2.1. Coordination

In the system of fighting corruption it is necessary to define the strategic, operative, and tactical levels of leadership. Each ministry shall be responsible for carrying out anti-corruption measures and planning of good governing activities.

Recruitment of staff with appropriate skills, training of the existing staff, and provision of technical and other means for their work bears a crucial importance for the success of the anti-corruption strategy.

7.2.2. Strategic Leadership

Under the constitutional model of Georgia the President defines strategic directions of the authorities' policy, while the Government headed by the Prime Minister carries out the executive powers. Therefore, it is reasonable that the good governance coordination council is created with the President of Georgia for improving the communication system within the authorities.

The good governance coordination council shall regularly exchange information and brief the President on the good governance program of the Government and the course of action plan implementation of each agency in this respect.

The coordination council shall also develop the good governance strategy and determine main priorities.

7.2.3. Operative Leadership

Government of Georgia shall supervise the introduction of the anti-corruption policy.

Once in every 6 months the Government of Georgia shall prepare and present to the President the report on the course of fulfillment of action plan for implementation of National Anti-Corruption Strategy, while the similar report shall be presented to the Prime Minister bimonthly. Once in a year similar report shall be presented to the general public. These reports shall be published and posted on the web page for further and broad public discussions.

7.2.4. Tactical Leadership

A head of specific state agency shall be responsible for the fulfillment of action plan for implementation of National Anti-Corruption Strategy at the tactical level. Based on the action plan of implementation of National Anti-Corruption Strategy, state agencies shall develop the departmental action plans. Members of the Government of Georgia shall report to the Prime Minister bimonthly on the fulfillment of given action plans.