ISTANBUL ANTI-CORRUPTION ACTION PLAN

THIRD ROUND OF MONITORING

GEORGIA

PROGRESS UPDATES

The third round monitoring report on Georgia was adopted by the 12th Istanbul Action Plan monitoring meeting in September 2013. This document contains progress updates on the implementation of the third round recommendations by Georgia and the assessment of progress made. The document includes the progress updates made at the following ACN Istanbul Action Plan Plenary Meetings: 16-18 April 2014; 8-10 October 2014 and 23-25 March 2015.
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13th ACN Istanbul Action Plan Meeting on 16-18 April 2014: The progress report was submitted by Ms Rusudan Mikhelidze, Director of Analytical Department of the Ministry of Justice of Georgia that also acts as the Secretary of Anti-Corruption Council of Georgia and the Georgian National Coordinator at the ACN. TI Georgia provided a shadow progress report. The reports were reviewed by the monitoring exerts, including Mr Andrii Kukharuk, Ukraine; Mr Davor Dubravica and Mr Bojan Ernjakovic, Croatia; and Ms Olga Savran, OECD. The progress update was discussed and adopted by the Istanbul Action Plan monitoring meeting on 16-18 April 2014.

The monitoring meeting congratulated Georgia on progress recorded in the implementation of the 9 out of 15 recommendations only in 6 months since the adoption of the monitoring report, and noted that no progress was recorded regarding 6 recommendations. The monitoring meeting thanked the monitoring experts for their preparation for the assessment of progress, and noted that the shadow report provided by the TI Georgia was very useful for ensuring the objectivity of the assessment. The table below summarises the assessment, including the recommendations where progress was noted or where it was lacking.

14th ACN Istanbul Action Plan Meeting on 8-10 October 2014: The progress report was submitted by Ms Rusudan Mikhelidze. The reports were reviewed by the monitoring exerts, including Mr Robert Sivers, Ukraine; Mr Davor Dubravica, Croatia; and Ms Olga Savran, OECD. Mr Joop Vrolijk, SIGMA, advised the ACN regarding progress in the area of public financial control and management. TI Georgia provided comments during the meeting. The progress update was discussed and adopted by the Istanbul Action Plan monitoring meeting on 16-18 April 2014. The meeting concluded that there is progress in the implementation of 10 recommendations, and lack for further or tangible progress in relation to 5 recommendations.

15th ACN Istanbul Action Plan Meeting on 23-25 March 2015: The progress report was submitted by Mr Zurab Sanikidze, Acting Head of the Analytical Department of the Ministry of Justice of Georgia that also acts as the Secretary of Anti-Corruption Council of Georgia and the Georgian National Coordinator at the ACN. Ms Natalia Baratashvili of the Analytical Department of the Ministry of Justice and Mr Vakhtang Kezheradze from the State Audit Office also contributed to the presentation of the report. Mr. Erekle Uruzhadze of TI Georgia provided the shadow report and took part in the discussion of the report at the meeting. The reports were reviewed by the monitoring exerts, including Mr. Andrii Kukharuk, Ukraine; Mr Davor Dubravica, Croatia; Mrs. Airi Alakivi and Mr. Joop Vrolijk from SIGMA, and Mrs. Olga Savran from the ACN.

The meeting concluded that there was progress in the implementation of 12 recommendations, and lack for further or tangible progress in relation to 3 recommendations. The adoption of the new Anti-Corruption Strategy and Action Plan was the major achievement during the reporting period. The delegates to the meeting noted that lack of further progress may be due to the fact that the progress achieved during the previous meeting was already significant, and congratulated Georgia for the continued and dynamic anti-corruption reforms.
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1 The 16-18 April 2014 monitoring meeting decided that there is lack of progress in this area, since the draft law on plea bargaining was prepared and approved internally in the Government, but not adopted by the Parliament yet, and the monitoring methodology does not accept drafts for upgrading the performance ratings. However, the ACN Steering Group, which met immediately after the monitoring meeting, agreed that, for the purposes of progress updates, it would be acceptable, in the future, to upgrade the ratings when a draft law has been approved by the Government through its internal procedures.
PILLAR 1. ANTI-CORRUPTION POLICY

Recommendation 1

Ensure that anti-corruption strategy is regularly (at least every two years) reviewed based on a comprehensive analysis of the state of its implementation, its validity and corruption situation in different areas. Such reviews should involve meaningful public consultations and be transparent.

Develop and use a new methodology for monitoring and evaluating the anti-corruption action plan implementation based on measurable indicators which are supported by a clear timetable of implementation for each measure and assignment of responsibilities for implementation.

13th ACN Istanbul Action Plan Monitoring Meeting, 16-18 April

Measures taken to implement the recommendation

- Ensure that anti-corruption strategy is regularly (at least every two years) reviewed based on a comprehensive analysis of the state of its implementation, its validity and corruption situation in different areas. Such reviews should involve meaningful public consultations and be transparent.

The revision of the National Anti-Corruption Strategy and elaboration of new Action Plan (2014 - 2016) was initiated by the Anti-Corruption Council of Georgia (ACC) in January, 2013. For this aim, eleven Strategic Priorities for Fight against Corruption of 2014-2016 were elaborated based on the working process within the WG and adopted by the ACC on 5th July, 2013. The ACC created 9 thematic Sub-Working Groups (Sub-WGs) responsible for drafting the respective parts of the new Action Plan. The Work Plan illustrating the detailed plan of actions and steps as well as a List of Sources to be taken into consideration when revising Strategy/developing the new Action Plan were elaborated.

Sub-WGs were formed by the Secretariat through the online registration form. In addition, terms of reference (TOR) for WGs were prepared.

The process is comprehensive and inclusive and is based on analysis of the previous Action Plan (2010-2013) implementation - Assessment Report drafted by the Secretariat. The final Assessment Report will be submitted to the ACC Session on 14th of April, 2014.

The new Action Plan is to be elaborated on the basis of the framework – relevant format developed in 2013 at a strategic planning workshop organized by the ACC Secretariat in partnership with the UNODC ("The Development of a National Anti-Corruption Strategy and Action Plan for Georgia") which includes necessary components.

- Develop and use a new methodology for monitoring and evaluating the anti-corruption action plan implementation based on measurable indicators which are

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2 Anti-Corruption Strategy of Georgia does not have specific time period for implementation rather it states that the Strategy is the living document which is to be updated regularly. Anti-Corruption Action Plan of Georgia is for 3 years of implementation (Last Action Plan is for 2010-2013).
supported by a clear timetable of implementation for each measure and assignment of responsibilities for implementation.

Implementation of this recommendation is directly linked to the development of the new Action Plan which is to contain measurable indicators and clear timetables – targets for implementation of each measure. This should follow with the monitoring tool and new methodology which is yet to be discussed and decided within the framework of the WG.

The progress made after the adoption of the Report includes a) development of the new format for the Action Plan which includes all the relevant components: strategic priority, results and respective indicators, activities, baseline, targets, responsible agency/partner, risks and budget; and b) the new methodology for monitoring and assessment by the Secretariat which is aimed at remedying the shortcomings in the previous procedure. In particular, the Secretariat is to prepare a) the progress report biannually and b) the yearly evaluation reports. Progress Report is the compilation of the reports received from the responsible agencies in line with their Action Plan commitments, while the Evaluation report is the assessment of the anticorruption measures and their effectiveness by the secretariat based on the information received, in person meetings with the relevant agencies if necessary, relevant evaluations and reports by international as well as non-governmental organizations. The first Report of this kind for the implementation of the previous Strategy is currently being finalized by the Secretariat. The Draft Report analyses the progress made in relation to each priority area identified by the Action Plan as well as indicates existing gaps and outlines the future steps to be taken. The Assessment Report is based on the information provided by the responsible agencies as well as international recommendations and surveys, research papers of non-governmental organizations.

Assessment of Progress - 13th Plenary

As it was already stated in the third round monitoring report adopted in September 2013, the elaboration of the new anti-corruption Action Plan was initiated in January 2013; the strategic priorities for the Action Plan were adopted in July 2013. According to the progress update, new format for the Action Plan was prepared, including monitoring indicators; new methodology for the monitoring of the Action Plan was also prepared. According to TI, the process of the developing of the new Action plan has stalled. The Georgian delegation during the monitoring meeting agreed that the development of the new methodology required time. Finally, the delegation informed the meeting that the assessment report for the previous Action Plan was presented at the meeting of the Anti-Corruption Working Group on 2 May 2014 (after the submission of the progress report). On this basis, the meeting agreed that there is progress in implementing this recommendation.

14th ACN Istanbul Action Plan Monitoring Meeting, 8-10 October

Measures taken to implement the recommendation

- Ensure that anti-corruption strategy is regularly (at least every two years) reviewed based on a comprehensive analysis of the state of its implementation, its validity and corruption situation in different areas. Such reviews should involve meaningful public consultations and be transparent.
The intensive and participatory work on development of anticorruption strategic documents continued throughout reporting period within the framework of 9 thematic Sub-WGs created by the ACC in 2013. The Sub-WGs are co-chaired by respective representatives of government agencies and CSOs designated by ACC at its session on 14 April, 2014 the ACC. CSO representatives co-chairing WGs include: Transparency International Georgia, Georgian Young Lawyers Association, International Society for Fair Elections and Democracy etc.

At its session of 14 April, 2014, Secretariat updated the ACC about the working process on revision of Strategy and elaboration of Action Plan and presented the respective work plan. On the same session ACC approved its Annual Activity Report of 2013 and the candidates – co-chairs for the WGs; added new Strategic Priority on Fight against Corruption of 2014-2016 – Prevention of Corruption in Defence Sector and created ad hoc Working Group on the implementation of GRECO and UNCAC recommendations. The session mainly was devoted to the OGP Draft Action Plan, public consultations and related issues.

In total, throughout reporting period 16 meetings of Sub-WGs have been organized aimed at elaboration of logical framework of the strategy and the action plan, meetings discussed specific results, indicators, activities, baseline, targets, risks and budget components in relation to respective strategic priorities.

Initially, two meetings of the Expert Level WG of ACC were held with the aim to elaborate logical framework of the strategy and the action plan including priorities and respective results.

On 2 May, 2014 with the support of Council of Europe workshop on Revision of the Anti-Corruption Strategy and Development of the Action Plan was organized. The first session of the Workshop was focused at the new monitoring methodology for evaluation of AC strategy and action plan implementation and the Evaluation Report of the Implementation of 2010-2013 Anti-Corruption Action-Plan. The second session discussed the logical framework of the Draft Anti-Corruption Strategy. In addition, Council of Europe expert presented the result-based indicators for 12 Strategic Priorities with the aim to assist ACC WGs in developing outcome/output based rather than process/input oriented indicators that would subsequently ensure proper assessment of implementation of objectives set by the Strategy and Action Plan.

As a result of intensive work the draft logical framework has been finalized as well as zero draft Strategy and Action Plan were prepared. Process is on-going.

In addition to the above-mentioned, in the reporting period the Secretariat of ACC was focused on the OGP Action Plan preparation process. In this regard, the Secretariat of ACC coordinated 4 regular and 2 ad hoc sessions of the Open Government Georgia’s Forum, 2 roundtable discussions along with several bilateral meetings and intense consultations between the Secretariat, responsible agencies and civil society and countrywide public consultations held in 15 cities of Georgia, which included 19 meetings with the participation of up to 700 citizens. Based on the minutes of public consultations the Secretariat of ACC elaborated Report on Public Consultations of 2014 and presented it to the ACC session on 14 April. The report is available online. Moreover, in order to ensure unimpeded implementation of the Action Plan, although no formal approval of the AP is required at the national level by OGP, ACC facilitated discussion and approval of OGP Action Plan for 2014 -2015 by the Government of Georgia. The Action Plan was approved by Government of Georgia on 5 September, 2014.
• Develop and use a new methodology for monitoring and evaluating the anti-corruption action plan implementation based on measurable indicators which are supported by a clear timetable of implementation for each measure and assignment of responsibilities for implementation.

As indicated during the previous reporting period, in order to ensure that the revised Strategy and new Action Plan (2014-2016) are based on thorough analysis of the previous Action Plan (2010-2013) results, the Evaluation Report on Implementation of the Anti-Corruption Action Plan 2010-2013 was drafted by the Secretariat. The results of the Evaluation report were presented by the Secretariat on 2 May, 2014 at the Workshop on Revision of the Anti-Corruption Strategy and Development of the Action Plan (see above). The ACC WG members also discussed the new monitoring methodology consisting of two components - a) the progress report biannually and b) the yearly evaluation reports.

ACC Secretariat is currently working on a new detailed methodology for monitoring and evaluation of implementation of the Anti-Corruption Action Plan. Monitoring methodology will assess the implementation process of activities set out for 12 priority areas of the Anti-Corruption Strategy and Action Plan, whereas the evaluation methodology will make it possible to identify achieved outcomes as well as gaps and major challenges in relation to specific strategic priorities.

Draft methodology will be discussed within the Expert Level WG of the ACC and submitted to the ACC for approval subsequently.

**Assessment of Progress - 14th Plenary**

Evaluation Report on Implementation of the Anti-Corruption Action Plan 2010-2013 was drafted by the Secretariat of the ACC as a basis for the new Action Plan. The draft logical framework and draft Action Plan for 2014 - 2016 were prepared on the basis of intensive consultations with Georgian stakeholders and international experts; the Action Plan was not approved yet. The draft methodology for monitoring and evaluation of implementation of the Plan is also under development. Two meetings of the Expert Level WG of ACC held; Workshop on Revision of the Anti-Corruption Strategy and Development of the Action Plan held on 2 May in cooperation with CoE EaP; Zero draft Strategy and Action Plan prepared; 4 regular and 2 ad hoc sessions of the Open Government Georgia’s Forum organized by secretariat of ACC. In addition, the OGP Action Plan for 2014 -2015 was approved by Government of Georgia on 5 September, 2014. The monitoring meeting welcomed the intensive consultation process, but stressed that the Action Plan for 2014-2016 was still not finalized by October 2014, and concluded that there is no tangible progress regarding this recommendation.


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

• Ensure that anti-corruption strategy is regularly (at least every two years) reviewed based on a comprehensive analysis of the state of its implementation, its validity
and corruption situation in different areas. Such reviews should involve meaningful public consultations and be transparent.

As a result of intensive and collaborative work carried out in 2014, the new Anti-Corruption Strategy and 2015-2016 Anti-Corruption Action Plan of Georgia were adopted by the Anti-Corruption Council (ACC) on 4 February, 2015.³

Development process of new anticorruption strategic documents was conducted on the basis of 13 Strategic Priorities on Fight against Corruption⁴ within the framework of 9 thematic Sub-Working Groups (Sub-WGs) co-chaired by respective representatives of government agencies and CSOs designated by the ACC. In total the strategic development process included 17 meetings of Sub-WGs, 7 meetings of Expert Level ACC Working Group, one workshop on Revision of the Anti-Corruption Strategy and Development of the Action Plan, one ACC Session and a number of individual meetings held throughout 2014. From September, 2014 five Expert Level ACC Working Group meetings were held by the Secretariat – two meetings on 28 November, 2014 two on 5 December, 2014 and one on 16 January, 2015.

Worth noting is that the new Anti-Corruption Strategy is mainly based on the UNCAC structure and consist of 4 major Chapters: a) Aim, Goals, Principles and Development Process of Anti-Corruption Policy Documents; b) Prevention of Corruption; c) Criminalization of Corruption and d) International Cooperation. The Strategy also includes a special part on a new Monitoring and Evaluation Methodology (see below – recommendation 1, part 2).

While working on both the Anti-Corruption Strategy and Action Plan the logical framework, detailed work plan, list of sources⁵ as well as the list of risks and indicators prepared by the Secretariat were used by the WGs.

Among the sources of the new Anti-Corruption Strategy and Action Plan are international standards and principles (e.g. UNCAC, Kuala Lumpur Statement on Anti-Corruption Strategies, Council of Europe Resolution on Twenty Guiding Principles for the Fight against Corruption), recommendations and publications of international (e.g. OECD-ACN, GRECO, OSCE, UN) and local organisations (e.g. Transparency International Georgia, Georgian Young Lawyers’ Association, Institute for Development of Freedom of Information), best practices of other countries, etc. Moreover, in October, 2014 the Secretariat analysed existing international ratings related to 13 Strategic Priorities among them TRACE International, Global Corruption Barometer, Rule of Law Index, Worldwide Governance Indicators, Freedom of Information Rating, Open Budget Index, Government Defense Anti-Corruption Index, World Bank Enterprise Surveys, etc.

One of the major sources of the strategic documents was the Evaluation Report of the Implementation of 2010-2013 Anti-Corruption Action Plan elaborated by the Secretariat in

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³ Translation of both strategic documents is currently on-going. At this stage only unofficial translation of the Action Plan is available. As soon as the final English versions are prepared, the ACC Secretariat will send them to the OECD-ACN Secretariat.


⁵ Detailed list of sources is provided by the new Anti-Corruption Strategy.
2014 and finalized in January, 2015. The Evaluation Report analyses the progress made in relation to each priority area identified by the previous Action Plan as well as indicates existing gaps and outlines the future steps to be taken. The Assessment Report is based on the information provided by the responsible agencies as well as international recommendations and surveys, research papers of non-governmental organizations.

The Evaluation Report together with the ACC Annual Activity Report of 2014 and OGP Forum Activity Report 2014 was approved by the ACC at its Session on 4 February, 2015.

- **Develop and use a new methodology for monitoring and evaluating the anti-corruption action plan implementation based on measurable indicators which are supported by a clear timetable of implementation for each measure and assignment of responsibilities for implementation.**

Apart from the Anti-Corruption Strategy and Action Plan (2015-2016), a **new stand-alone Monitoring and Evaluation Methodology** was adopted by the ACC on 4 February, 2015.

The major aim of the Methodology is to assess implementation process of activities set out for 13 priority areas of the Anti-Corruption Strategy and Action Plan, identify achieved outcomes as well as existing challenges and gaps. The Methodology is based on the recommendations of international (OECD-ACN) and local organisations (Transparency Intentional Georgia, Open Society Georgia Foundation), as well as monitoring mechanisms used by GRECO and OECD-ACN.

The Monitoring and Evaluation Methodology consists of three components:

a) **Progress Report and Monitoring Tool** – shall be prepared by the responsible state agencies biannually and reflect progress made in implementation of activities set out by the Action Plan. The Monitoring Tool is aimed at enhancing the reporting process; particularly, it includes the basis data (baseline) regarding Action Plan activities, specific timeframes as well as two types of ratings:

   i) Assessment of implementation – which assess whether an activity is implemented; largely implemented; partly implemented or not implemented;

   ii) Status of implementation – which defines the status of implementation of particular activity - implementation process is not finalized; implementation is ongoing; implementation is suspended; implementation process is finalized.

The Monitoring Tool is to be filled out by all responsible agencies is submitted to first NGOs for their comments and input and then to the Secretariat for assessment. The Progress Reports will be adopted by the ACC. (See attachment – Monitoring Tool).

b) **Monitoring Report** – is a monitoring component and the Report is to be prepared annually by the ACC Secretariat. The Report will assess implementation process of the Action Plan activities and achieved results. It will be based on Progress Reports and Monitoring Tool.

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6 The Evaluation Report is available on the official web-page of ACC.
7 Rule of Procedures adopted by GRECO at its 1st plenary meeting (Strasbourg, 4-6 October 1999).
submitted by responsible agencies biannually. Annual Reports will be adopted by the ACC and submitted to the Government of Georgia.

c) Evaluation Report – is an evaluation component and is aimed at assessing achieved results and their effectiveness/efficiency as well as analysis of existing situation, identification of gaps and challenges in the Action Plan implementation process by the responsible agencies. It will be based on Monitoring Reports as well as specific result-oriented indicators set out by the new Action Plan (2015-2016). Moreover, the Report will take into account international ratings, assessment of international and local organisations, relevant publications as well as in-depth interviews/consultations with representatives from responsible agencies, NGOs or experts. The Report will be elaborated once in two years by the ACC Secretariat and adopted by the ACC. It will also be submitted to the Government of Georgia.

Worth noting is that the first Evaluation Report of this kind on implementation of the previous Action Plan (2010-2013) was finalized in January, 2015 by the ACC Secretariat and submitted to the ACC on 4 February, 2015.9

As concerns the OGP Initiative, following adoption of the OGP Action Plan of 2014-2015 the Secretariat of the Open Government Georgia elaborated the Action Plan Monitoring and Self-Assessment Methodology in line with the OGP regulations and guidelines. The Open Government Georgia’s Forum dedicated its 2 sessions to the finalization of the proposed methodology. The Methodology was also discussed and approved by the OGP Secretariat.

According to the methodology, the Action Plan implementation monitoring is conducted quarterly. The Monitoring Tool is to be filled out and submitted to the Secretariat by the responsible agencies; as the next step, monitoring tool filled out by all responsible agencies is submitted to the Forum member CSOs and international organizations for their comments and input. Monitoring results are to be finalized by the Secretariat and presented to the Forum for discussion.

According to the OGP regulations the Secretariat prepares the Self-Assessment Report twice during the Action Plan implementation period: one as the midterm and another as the end of term report. The Self-Assessment Report will be based on the progress reports, monitoring results as well key informant interviews with the responsible agencies. The draft Self-Assessment Report is submitted to the Forum for contributions and discussed during the Forum meeting (round table discussion). The Secretariat prepares the final report and submits it to the ACC and OGP Secretariat.

Assessment of Progress - 15th Plenary

The new Anti-Corruption Strategy and 2015-2016 Anti-Corruption Action Plan of Georgia were adopted by the Anti-Corruption Council (ACC) on 4 February, 2015. Evaluation Report of the Implementation of 2010-2013 Anti-Corruption Action Plan elaborated by the Secretariat in 2014 and finalized in January, was used as one of the major basis for the development of the new Strategy. The Strategy and the Action plan were submitted to the Government for adoption, which is expected in April. The Ministry of Justice is now developing the budget lines for these documents as well as working on development of detailed Monitoring Tool of the Action Plan. A

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9 The Evaluation Report is available on the official web-page of ACC.
new stand-alone Monitoring and Evaluation Methodology was adopted by the ACC on 4 February, 2015. TI Georgia confirmed that the strategy and the action plan were developed through an inclusive process, but stressed that the preparation of these documents took nearly two years, which indicates that the Anti-Corruption Council continues to face problems in terms of capacity. These steps represent significant progress in implementing this recommendation.

**Recommendation 2**

Make anti-corruption public information and education campaigns a part of the anti-corruption policy documents. Elaborate a media and public relations strategy for raising awareness about anti-corruption efforts of the government.

Ensure meaningful and systematic participation of the civil society in anti-corruption policy development and implementation, in particular, by conducting public consultations on any significant anti-corruption measures planned.

**13th ACN Istanbul Action Plan Monitoring Meeting, 16-18 April**

**Measures taken to implement this recommendation**

- Make anti-corruption public information and education campaigns a part of the anti-corruption policy documents. Elaborate a media and public relations strategy for raising awareness about anti-corruption efforts of the government.

Anti-Corruption public information and education have been identified by the ACC as one of the Strategic Priorities of the Fight against Corruption of 2014-2016, in particular Priority N 4 - Anti-Corruption Education and Public Awareness Raising. Therefore, specific activities, *inter alia* development of the public relations strategy as well as planning/implementation of awareness campaign will be included in the revised Strategy and new Action Plan (2014-2016).

However, in the meantime the large-scale public consultations have been launched by the Secretariat in cooperation with the Civil Society of Georgia in the framework of the Open Government Partnership (OGP) initiative. The purpose of the campaign is to raise awareness of the public about open and participatory government, transparency of the government and its accountability to the people; and to incentivise them to use the existing tools take to part in the work of the government and on-going processes; encourage them to contribute with their ideas and voice to the developing the transparency, openness and accountability agenda of the Government which will be enshrined in the Open Government and Anti-Corruption action plans.

The campaign was planned by the Open Government Georgia’s Forum (OGGF) which is the national coordination mechanism for OGP Georgia and at the same time one of the Sub-working group under ACC based on the written recommendations by the NGOs members of the forum as well as the discussions at the OGGF. The plan for public consultation has been put on the website\(^{10}\). At the same time, in order to contribute to the OGP Action Plan development space for online consultations was created were citizens are asked to reach to the Secretariat with

their ideas about what is necessary to make the Government of Georgia more open, transparent and accountable to its citizens.

The target groups for the campaign covering the whole territory of Georgia is very broad and it includes:

- Students and Academia
- Local Government Representatives
- Local NGOs
- Business Sector
- Women's organizations
- Librarians, members of public.

A full month long campaign widely supported by central and local media covers 7 regions 15 cities: 13 meetings were already held and additional 5 meetings will take place in three cities; about 500 people participated in the campaign so far. The campaign in regions is in progress. Meetings will be organized in the capital as well.

The meetings are facilitated by two speakers – one government and one NGO representative. They include motivational videos about why citizens need to be active and have their say in government and about 30 minute presentation by speakers (topics include open government partnership, information on the ACC, delivery of public services, civil service reform, asset declaration monitoring, freedom of information legislative changes etc.) and around 2 hours of discussion on problematic issues and the need for the future reform. The results of the discussions are reflected in the minutes and analyzed subsequently. The main outcomes of the public consultations, problem and need for action will be presented to the next ACC session in April and should serve as the basis for development of the Open Government and Anti-Corruption Action Plan of Georgia.

- **Ensure meaningful and systematic participation of the civil society in anti-corruption policy development and implementation, in particular, by conducting public consultations on any significant anti-corruption measures planned.**

Involvement of civil society in anti-corruption policy development and implementation is ensured through their representation within the ACC and its Expert level WG. Based on the recent changes made to the composition of the ACC In December, 2013 a new non-governmental organization - International Society for Fair Elections and Democracy became a member of the ACC. Moreover, in order to ensure the inclusive process of new 2014-2016 Anti-Corruption Action Plan drafting, along with the state institutions the representatives from civil society, business sector and international organizations were invited to register for the participation in the thematic Sub-WGs in 2013.

The structured and systematic collaboration with the civil society organisations continued throughout 2013-2014. Two sessions of the ACC, two Expert Level WG meetings and five roundtables were held throughout 2013.

In addition, from 2014 non-governmental organisations have been actively participating in freedom of information legislation development process, including representation within three
thematic WGs responsible for the drafting relevant parts of the Freedom of Information Act. The first meetings of these WGs took place on March 20-21, 2014.

In the beginning of 2014, three new NGOs became members of the Open Government Georgia’s Forum. The Forum is chaired by one government and one NGO representative. On January 15, 2014 the renewed Forum held its first meeting. Forum meets every first Wednesday of a month at the Ministry of Justice premises.

**Assessment of Progress**

Anti-corruption education and awareness raising were identified as one of the priorities for the new Action Plan, however no action plan were developed or implemented yet in this area. According to TI Georgia, NGOs are provided a meaningful opportunity to participate in the development of the new Action Plan through their participation in the Anti-Corruption Council and at the expert level working group as well as Thematic Working Groups. A public information campaign and public consultations were organised in the framework of the OGP initiative. The meeting agreed that there is progress regarding this recommendation.

**14th ACN Istanbul Action Plan Meeting on 8-10 October 2014**

**Measures taken to implement this recommendation**

- **Make anti-corruption public information and education campaigns a part of the anti-corruption policy documents. Elaborate a media and public relations strategy for raising awareness about anti-corruption efforts of the government.**

As indicated during the previous reporting period, anticorruption public information and education was identified by the ACC as one of the Strategic Priorities of the Fight against Corruption of 2014-2016, in particular, **Priority N4 - Anti-Corruption Education and Public Awareness Raising.**

Proposed logical framework of the Anti-Corruption Strategy includes specific results on **Priority N4** such as: elaboration of public relations strategy on anticorruption issues; planning and implementation of anticorruption public information campaign; ensuring civil society involvement in anticorruption policy development and implementation etc.

- **Ensure meaningful and systematic participation of the civil society in anti-corruption policy development and implementation, in particular, by conducting public consultations on any significant anti-corruption measures planned.**

Civil society representatives are actively involved in the Anti-Corruption Strategy and Action Plan development process through participation in ACC WGs. Moreover, in order to ensure meaningful and active participation of civil society each Sub-WG is chaired by one government and one NGO representative as mentioned above.

OGP Action Plan for 2014-2015 was one of the highlights of efficient CSO participation in the strategic planning process within the framework of Open Government Georgia Forum operation under ACC. Forum includes representatives from public institutions and civil society and is
chaired by the ACC Secretary and representative of CSO nominated jointly by CSOs represented in the Forum Director of Institute for Development of Freedom of Information (IDFI).

Importantly, the latest developments in various agencies such as CSB, Procurement Agency and others show that the CSOs are actively involved in development of anti-corruption policy initiatives, including developing system for monitoring of asset declarations, drafting the concept of civil service reform etc.

Assessment of Progress

Proposed logical framework of the Anti-Corruption Strategy includes specific results on Priority N4 such as: elaboration of public relations strategy on anticorruption issues; planning and implementation of anticorruption public information campaign; ensuring civil society involvement in anticorruption policy development and implementation. However, there is no actual Action Plan yet. Civil society takes active part in the development of the anti-corruption policy: they co-chair working groups under the ACC together with the government. In addition, there are number of other platforms for involvement of CSOs in policy and decision-making process, among them Working Groups on specific areas such as elaboration of asset declaration monitoring system created by CSB, the Board responsible for observing political party monitoring process formed by SAO, the Dispute Resolution Board established by State Procurement Agency, etc. The monitoring meeting agreed that there is progress in relation to this recommendation.


Measures taken to implement the recommendation

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Make anti-corruption public information and education campaigns a part of the anti-corruption policy documents. Elaborate a media and public relations strategy for raising awareness about anti-corruption efforts of the government.

As indicated during the previous reporting period, one of the 13 Strategic Priorities of New Anti-Corruption Strategy and Action Plan (2015-2016) is - Anti-Corruption Education and Public Awareness Raising (Priority N4).

According to the new Anti-Corruption Strategy a long-term goal of this Priority is to raise public awareness of corruption, to disseminate information about ongoing anticorruption reforms, achievements and existing challenges as well as to engage society in fight against corruption. The Strategy emphasizes that public awareness raising must be conducted on a larger scale and become more systematic in Georgia. Particularly, awareness raising on fight against corruption must involve educational events and information campaigns as well as regular dissemination of information about achieved results and anticorruption measures, existing risks in relevant spheres and anticorruption mechanisms as well as meetings both on central and local levels.11

11 Anti-Corruption Strategy of Georgia, adopted by the ACC on 4 February, 2015; p. 20.
As regards the Action Plan (2015-2016), the strategic document sets out the result (4.1) – “General public is informed on results and challenges in fighting against corruption” and foresees four major activities:

4.1.1. Elaboration of public relations strategy on anticorruption issues;
4.1.2. Planning and implementation of anticorruption public information campaign;
4.1.3. Organizing round tables, seminars, competitions and other events on anticorruption issues;
4.1.4. Development and implementation of anticorruption curriculum in educational institutions.

The work on elaboration of the public relations strategy on anticorruption issues by the Secretariat in coordination with responsible agencies and NGOs will start in March, 2015.

In relation to public awareness, noteworthy is that on 24 December, 2014 with the aim to mark the International Anti-Corruption Day (9 December), the Secretariat in cooperation with Georgian Young Lawyers’ Association and Civil Service Bureau organized a model Session of the ACC with participation of 13 students from different Georgian universities. Before the Session took place, the roles of ACC institutions (public agencies, international organisations and local NGOs) were divided between the students and a training seminar was organized by the Secretariat. During the model Session the students presented positions of the ACC institutions, discussed and adopted Strategic Priorities of Fight against Corruption, agreed on the framework of the new Action Plan and argue on public relations strategy on anticorruption issues.

For the purposes of increasing public awareness, within the framework of the OGP Initiative with support of the USAID G3 program and under the direct guidance of the MOJ, the Institute for Development of Freedom of Information (IDFI) conducted a public awareness raising campaign. In the framework of this campaign a full and a short (brochure) versions of the Action Plan in Georgian and in English were printed and distributed to public agencies, CSOs, international organizations, embassies, etc. Additionally, flyers (in Georgian and in English) about the Open Government Georgia and commitments enshrined in the Action Plan were printed for wide public. All these printed materials were disseminated during the meetings with students, journalists, etc. dedicated to the discussion of the OGP-related issues. Within the public awareness raising campaign a short video about the Open Government Georgia and ambitious commitments of the Action Plan was made and shown on public television broadcasters.

- Ensure meaningful and systematic participation of the civil society in anti-corruption policy development and implementation, in particular, by conducting public consultations on any significant anti-corruption measures planned.

As indicated during previous reporting period, civil society representatives have been actively involved in the Anti-Corruption Strategy and Action Plan elaboration and development process through participation in ACC WGs and Expert Level WG meetings. As noted above, from September 2014 five meetings of Expert Level WG were held and intensive consultations with representatives of CSOs took place. Civil society representatives were actively involved in the discussions on new strategic documents during the ACC Session on 4 February, 2015.
Apart from participation in the strategic planning process, **CSOs were actively involved in the work Open Government Georgia Forum operation under the ACC.** According to the Terms of Reference of the OGP Forum, along with the elaboration of the National Action Plan of Georgia and planning and conducting the public consultations, the Forum supports and monitors the Action Plan implementation process. Therefore, after the adoption of the Action Plan regular meetings of the Forum, comprised of the Action Plan responsible agencies, other interested public agencies, non-governmental and international organizations, continue to be held at the premises of the Ministry of Justice. In 2014 the Forum conducted its 9 sessions; from September, 2014 till January 2015 three meetings took place (minutes of the meetings are available under the Open Government Georgia’s Banner at the MOJ website). In addition, in January, 2015 the first annual Activity Report of the Forum was prepared by the Open Government Georgia’s Secretariat and presented to the ACC Session on 4 February, 2015.

In addition, by the ACC decision made on 4 February, a Working Group on Development on the Asset Declaration Monitoring System was established and representatives from CSOs were included in the membership of the mentioned WG as well. The first meeting of the new Working Group will be held on 6 March, 2015.

Apart from mentioned above, civil society involvement was ensured by various agencies such as Civil Service Bureau (CSB), State Procurement Agency and State Audit Office in development of other anticorruption policy initiatives, including drafting the concept of civil service reform, monitoring transparency of political party funding, etc.

### Assessment of Progress - 15th Plenary

Result (4.1) of the adopted Action Plan (2015-2016) is dedicated to awareness raising as follows: “General public is informed on results and challenges in fighting against corruption”, and foresees four major activities: elaboration of public relations strategy on anticorruption issues; planning and implementation of this campaign; organizing round tables, seminars, competitions and other events; and development and implementation of anticorruption curriculum in educational institutions. The work on elaboration of the public relations strategy will start in March, 2015. The Strategy and the Action Plan were developed with active participation of civil society.

The ACC Secretariat in cooperation with Georgian Young Lawyers’ Association and Civil Service Bureau organized a model Session of the ACC with participation of 13 students from different Georgian universities. A public awareness raising campaign was organised within the framework of the OGP Initiative with support of the USAID G3 program and under the direct guidance of the MOJ, the Institute for Development of Freedom of Information (IDFI).

Moreover, from October, 2014 till January 2015 three meetings of the Open Government Georgia Forum were organized by the Secretariat.

TI Georgia informed the monitoring team that it was not aware of any information, education or awareness raising measures implemented by the Georgian Government in the field of anticorruption policy since October 2014.
There is **progress** in this area.

**Recommendation 3**

Ensure that the body responsible for anti-corruption policy co-ordination is provided with adequate powers, resources and secretariat, including permanent dedicated staff specialised only in anti-corruption work.

Increase visibility of the anti-corruption policy co-ordination mechanism by preparing and publishing regular reports on its work and by reporting regularly to the Parliament.

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**13th ACN Istanbul Action Plan Meeting on 16-18 April 2014**

**Measures taken to implement this recommendation:**

- **Ensure that the body responsible for anti-corruption policy co-ordination is provided with adequate powers, resources and secretariat, including permanent dedicated staff specialised only in anti-corruption work.**

After the Third Round Monitoring, based on the legislative amendments introduced to the Law of Georgia on Conflict of Interest and Corruption in Public Sector, the ACC became accountable before the Government of Georgia instead of the President. The Statute and the renewed composition of the ACC were subsequently adopted by the Government Decree N 390 on December 30, 2013. New members of the ACC are the following: Ministry of Labour, Health and Social Affairs; Ministry of Defence; Personal Data Protection Inspector; Tax Ombudsman; Central Election Commission and Parliamentary Secretary of the Government as well as International Society for Fair Elections and Democracy.

There are discussions on various ways of increasing the capacity of ACC ongoing, among them the initiatives for specific projects to that effect with our international partners.

- **Increase visibility of the anti-corruption policy co-ordination mechanism by preparing and publishing regular reports on its work and by reporting regularly to the Parliament**

Information about the ACC and its WG/thematic Sub-WGs is available on the website of the Ministry of Justice. Information on the new Strategic Priorities of Fight against Corruption (2014-2016); new thematic WGs as well as on the process of new Anti-Corruption policy development has been added and relevant documents were uploaded to the web-page. Moreover, relevant reports of the international organisations (OECD, GRECO and UNODC) were added to the website. After the Assessment of the 2010-2013 Action Plan implementation process is finalized, it will be published as well.

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**Assessment of Progress**

The status of the Anti-Corruption Council was changed after the third monitoring round: following the change of the Law of Georgia on Conflict of Interest and Corruption in Public Sector the Council is now accountable to the Government and not to the President. However, no progress was recorded regarding the strengthening the capacity of the Secretariat of the
Council. Reports of the Council are not published regularly, as it was recommended in the third round of monitoring. The meeting concluded that there is lack of progress regarding this recommendation.

14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

**Measures taken to implement this recommendation**

- *Ensure that the body responsible for anti-corruption policy co-ordination is provided with adequate powers, resources and secretariat, including permanent dedicated staff specialised only in anti-corruption work.*

Strengthening efficiency, capacities and visibility of the Anti-Corruption Council have been identified by the ACC as one of the Strategic Priorities of the Fight against Corruption of 2014-2016.

Specific results of the draft logical framework include: elaboration of proposals for strengthening ACC institutional capacity; increasing necessary resources and strengthening capacities of the ACC Secretariat; improvement of monitoring mechanism for implementation of anticorruption policy documents; strengthening international cooperation in fight against corruption; increasing public awareness about the ACC, etc.

Two new employees have been recently appointed in the Analytical Department of the Ministry of Justice – legal adviser and sociologist who will also be supporting the work of the ACC Secretariat. Sociologist is involved in drafting process of the new monitoring and evaluation methodology. The new legal adviser’s responsibilities include support of the Secretariat in elaboration of anticorruption policy documents and evaluation of their implementation as well as reporting to the international organizations.

- *Increase visibility of the anti-corruption policy co-ordination mechanism by preparing and publishing regular reports on its work and by reporting regularly to the Parliament*

The Secretariat elaborated ACC Annual Activity Report of 2013. The document provides detailed information on activities implemented by the ACC within the anticorruption policy development process *inter alia* adoption of Strategic Priorities, creation of Sub-WGs, development of logical framework of the Anti-Corruption Strategy, important events and meetings that took place during reporting year, etc. Report in addition includes comprehensive information on Open Government Partnership Initiative (OGP), remodeled Open Government Georgia Forum and OGP Action Plan elaboration process. Additionally, the document describes the steps that were taken to increase access to public information. The Annual Activity Report was presented and discussed at the ACC Session on 14 April, 2014 and is available online. As pointed out, high visibility of OGP process has been ensured by ACC. In particular, the dedicated page on MOJ webpage included all the information, documentation and updates about the process. Dates and locations for planned public consultation meetings were posted in advance of the meetings as required by OGP Guidelines. Minutes of the meetings as well as final report of public consultations is placed on the webpage as well.
Assessment of Progress

Increasing resources and strengthening capacities of the ACC Secretariat and increasing public awareness about the ACC were included in the draft logical framework as objectives of the new Action Plan. In the meantime, two additional employees have been recently appointed in the Analytical Department of the Ministry of Justice – legal adviser and sociologist who will also be supporting the work of the ACC Secretariat. The Secretariat elaborated ACC Annual Activity Report of 2013, presented it to the ACC and published it on-line. The visibility was also provided to the OGP work. There is progress.


Measures taken to implement the recommendation
(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Ensure that the body responsible for anti-corruption policy co-ordination is provided with adequate powers, resources and secretariat, including permanent dedicated staff specialised only in anti-corruption work.

Strengthening efficiency, capacities and visibility of the Anti-Corruption Council have been identified by the ACC as one of the Strategic Priorities of the Fight against Corruption (Priority N1).

According to the new Anti-Corruption Strategy a long-term goal of this Priority is to enhance mechanisms of drafting and implementation of the national anticorruption policy, ensure effective interagency cooperation and coordination in fight against corruption. The Strategy emphasizes that human and analytical resources of the ACC Secretariat need to be enhanced, whereas effective monitoring process of the implementation of strategic anticorruption documents is to be ensured. Moreover, the Strategy states that as an important precondition for development of effective anticorruption policy, awareness raising and public consultations about activities and measures of the ACC shall be one of the priority areas as well. In addition, cooperation with anticorruption bodies of other countries and relevant international organizations as well as non-governmental sector must continue. Finally, pursuant to the Strategy the ACC must not limit itself with cooperation only on a central level but rather shift efforts towards increasing involvement of local self-governments, particularly involve them in the work of the ACC and provide support in development of anticorruption measures at the local level. In this regard, the Action Plan (2015-2016) sets the following five outcomes:

1.1. Anti-Corruption Council is institutionally strengthened;
1.2. Revision process of anticorruption strategic documents is inclusive; Monitoring of implementation process of the strategic documents is effective;
1.3. Role of local governments in the process of development and implementation of anticorruption policies is strengthened;
1.4. International cooperation in prevention of corruption is effective;
1.5. Public awareness about the Anti-Corruption Council is increased.

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12 Anti-Corruption Strategy of Georgia, adopted by the ACC on 4 February, 2015; p. 20.
Specific activities of the new Action Plan include: elaboration of proposals for strengthening ACC institutional capacity; increasing necessary resources and strengthening capacities of the ACC Secretariat; annual revision of the Anti-Corruption Strategy and Action Plan based on the assessment of implementation level and identified challenges; development of online consultations for the revision of anticorruption policy documents; increasing bilateral and multilateral cooperation with corruption prevention bodies on international level, etc. (See the attachment - Unofficial translation of the Anti-Corruption Action Plan (2015-2016)).

Apart from mentioned, at its Session on 4th February the ACC decided to expand its membership and invite to the Council 6 new state agencies:
- Ministry of Education and Science of Georgia;
- LEPL Competition Agency of Georgia;
- National Communications Commission of Georgia;
- Consumer Rights Public Defender existing at the National Communications Commission;
- Energy and Water Supply Regulatory Commission of Georgia;

- **Increase visibility of the anti-corruption policy co-ordination mechanism by preparing and publishing regular reports on its work and by reporting regularly to the Parliament**

In January, 2015 the Secretariat elaborated the **ACC Annual Activity Report of 2014** and submitted at the ACC Session on 4 February, 2015. The document provides detailed information on activities implemented by the ACC, particularly inclusive development process of anticorruption policy documents, important events and working group meetings that took place throughout the reporting year, etc. Additionally, the Report includes comprehensive information on Open Government Partnership Initiative (OGP), remodeled Open Government Georgia Forum and OGP Action Plan elaboration process. Additionally, the document describes the steps that were taken in the drafting process of new Freedom of Information Act. The Annual Activity Report is available online on the web-page of the Ministry of Justice. The Annual Report was submitted to the Government of Georgia for consideration. New strategic documents and amended Statute of the ACC were also sent by the ACC Secretariat to the Government of Georgia for adoption and Annual Report for consideration.

Apart from aforementioned, information on the **dedicated page on the MOJ web-page was updated and new documents** (Anti-Corruption Strategy, Action Plan, Monitoring and Evaluation Methodology, Annual Activity Report, Open Government Georgia Forum Activity Report, etc.) **were uploaded**. Minutes of the ACC Session is currently being drafted and will be made available on the webpage as well.

**Assessment of Progress - 15th Plenary**

Strengthening efficiency, capacities and visibility of the Anti-Corruption Council have been identified as one of the Strategic Priorities of the Fight against Corruption (Priority N1). The increasing number of the Secretariat of the Anti-Corruption Council staff members is among indicators of new Action Plan as well as including mainly anticorruption issues in job
descriptions of the staff members of the Secretariat of the ACC. Two new vacancies will be announced in the Analytical Department in the near future.

At its Session on 4th February 2015 the ACC decided to expand its membership and invite 6 new state agencies, including Ministry of Education and Science; Competition Agency; National Communications Commission; Energy and Water Supply Regulatory Commission; and Consumer Rights Public Defenders on Communications and on Energy and Water Supply. At that meeting, the ACC also approved its Annual Activity Report of 2014.

According to TI Georgia, the powers and the resources of the Secretariat remain limited and there were no any changes in this area since October 2014. Significant delays in the process of drafting the new strategy and action plan indicate that the secretariat may need additional staff members even under its current limited mandate. More generally, TI Georgia supports the establishment of a standalone anticorruption agency that would have monitoring and enforcement powers in addition to the policy coordination role.

According to the Government, Anti-Corruption Strategy, Action Plan, Monitoring and Evaluation Methodology, Annual Activity Report, Open Government Georgia Forum Activity Report, etc. were uploaded on the dedicated page on the MOJ web-page.

According to TI Georgia, the Anti-Corruption Council should have its own website, and noted that information posted on the Justice Ministry’s website does not appear to be updated regularly, e.g. the new National Anti-Corruption Strategy and Action Plan have not been posted to the website as of 23 February 2015.

There is limited progress in implementing this recommendation.

PILLAR 2. CRIMINALISATION OF CORRUPTION

Recommendation 4

Include practical training exercises focusing specifically on liability of legal persons for corruption offences in the curriculum for newly appointed investigators and prosecutors, as well as for their further in-service training. Train judges on the application of corporate liability.

Provide investigators and prosecutors with a manual on effective investigation and prosecution of corruption cases involving legal persons.

Ensure that enforcement of the liability of legal persons for corruption offences is included in the policy priorities in the criminal justice area.

Consider introducing in the legislation an exemption (defence) from liability for companies with effective internal controls and compliance programmes.

13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation

- Include practical training exercises focusing specifically on liability of legal persons for corruption offences in the curriculum for newly appointed investigators and prosecutors,
as well as for their further in-service training. Train judges on the application of corporate liability.

Training on issues of liability of legal persons was included in the 2014 Annual Training Plan developed by the Chief Prosecutor’s Office. Elaboration of training curriculum focusing specifically on liability of legal persons was initiated in the beginning of 2014 and it is planned to involve international expertise in this process. The curricula will be finalized in 2014 and trainings of prosecutors/interns will be held subsequently.

The country specialised training is planned under CoE/EaP project on “Good Governance and Fight against Corruption”. The Draft Workplan of Activities of the project foresees 2 days training on “Liability of legal persons for corruption offences” to be held in 2014.

- Provide investigators and prosecutors with a manual on effective investigation and prosecution of corruption cases involving legal persons.
- Ensure that enforcement of the liability of legal persons for corruption offences is included in the policy priorities in the criminal justice area.

No progress has been made as of now to implement this part of the recommendation.

- Consider introducing in the legislation an exemption (defence) from liability for companies with effective internal controls and compliance programmes.

No progress has been made as of now to implement this part of the recommendation.

**Assessment of Progress**

The plans to organise training on liability of legal persons were welcomed by the meeting. However, the meeting agreed that there is no progress yet regarding the substantive implementation of this recommendation.

**14th ACN Istanbul Action Plan Meeting on 8-10 October 2014**

**Measures taken to implement this recommendation**

In July, 2014 special training for prosecutors working on the issues of liability of legal persons was organized by Chief Prosecutor’s Office of Georgia with the support of GIZ and with the participation of the German experts.

In addition, in September 2014, the training was organized by the COE under EAP project on Liability of Legal Persons for Corruption Offences for prosecutors, investigators, representatives of the Ministry of Internal Affairs and the Ministry of Justice, with the involvement of non-governmental organizations (IDFI - Institute of Development of Freedom of Information, GYLA - Georgian Young Lawyers Association, TI - Transparency International).

The Chief Prosecutor’s Office of Georgia is currently working on the guidelines for efficient investigation and prosecution. Special chapters are devoted to the issues of liability of legal persons. Elaboration of guidelines will be followed by trainings of prosecutors among them on the issues of liability of legal persons.
Assessment of Progress

Training on issues related to investigation and prosecution of legal persons was provided with the assistance of donors and IOs. Guidelines on effective investigation and prosecution, including of legal persons, are under preparation. There is progress.


Measures taken to implement the recommendation
(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Include practical training exercises focusing specifically on liability of legal persons for corruption offences in the curriculum for newly appointed investigators and prosecutors, as well as for their further in-service training. Train judges on the application of corporate liability.
- Provide investigators and prosecutors with a manual on effective investigation and prosecution of corruption cases involving legal persons.
- Ensure that enforcement of the liability of legal persons for corruption offences is included in the policy priorities in the criminal justice area.

Prevention of Corruption in the Law-Enforcement Bodies, Effective Detection and Prosecution of Corruption-Related Crimes (Priority 5) is one of 13 Strategic Priorities of the Anti-Corruption Strategy and Action Plan (2015-2016). According to the Action Plan (Result 5.4. Mechanism of liability of legal persons is effectively enforced) the Prosecution Service of Georgia is responsible for elaboration and effective enforcement of the manual on investigation and prosecution of corruption-related crimes committed by legal persons (Activity 5.4.1.) as well as increasing qualification of prosecutors and investigators on issues of investigation and prosecution of corruption-related crimes committed by legal persons (Activity 5.4.2.).

Apart from mentioned, the Chief Prosecutor’s Office of Georgia is currently finalizing work on Guidelines on the investigation and prosecution of crimes (see information from previous reporting period) involving the liability of legal persons. Elaboration of Guidelines will be followed by trainings of prosecutors and investigators.

- Consider introducing in the legislation an exemption (defence) from liability for companies with effective internal controls and compliance programmes.

No progress has been made as of now to implement this part of the recommendation.

Assessment of Progress - 15th Plenary

Priority 5 of the Anti-Corruption Strategy and Action Plan (2015-2016) includes effective enforcement of liability of legal persons among the policy priorities for Law-Enforcement Bodies and Prosecution service. To achieve this, the Prosecution Service is expected to elaborate and enforce a manual on investigation and prosecution of corruption-related crimes committed by legal persons (Activity 5.4.1.) as well as increasing qualification of prosecutors and investigators on issues of corruption-related crimes committed by legal persons (Activity
Recommendation 5

Ensure that criminal sanctions for passive bribery are proportionate and dissuasive. Review current system of plea bargaining to prevent abuse of prosecutorial powers, in particular by increasing the role of judge in the proceedings, adopting and making public guidelines for prosecutors on application of plea bargaining provisions.

Measures taken to implement this recommendation:

- Ensure that criminal sanctions for passive bribery are proportionate and dissuasive.

Georgia is in the process of comprehensive revision of its Criminal Code (CC) with the aim of liberalization, modernization and refinement of the legal text and bringing it in compliance with relevant international and European standards. The implementation of this recommendation is to be ensured as a part of the overall revision process. In 2013 General Part of the CC was finalized, while in 2014 the intensive work on the revision of Special Part has started. The process is pre-determined and agreed within the Criminal Legislation Working Group of the Inter-Agency Criminal Justice Reform Council of Georgia and is fully participatory.

- As a part of the revision process, on March 6, 2014 discussions were held on bribery offences provided by Chapter XXXIX of the Special Part of the Criminal Code. During the meeting the minimum and maximum penalties prescribed by law were discussed and it was agreed at the Sub-WG level that the revised article will be proposed to the broader Criminal Legislation Working Group. Review current system of plea bargaining to prevent abuse of prosecutorial powers, in particular by increasing the role of judge in the proceedings, adopting and making public guidelines for prosecutors on application of plea bargaining provisions.

The draft of the legislative amendments to the Criminal Procedure Code of Georgia aimed at enhancing powers of a judge in the process of plea bargaining, increasing role of the victim in the plea bargaining process, reducing prosecutorial discretion and improving transparency of the procedure were elaborated by the Ministry of Justice.

The draft amendments on plea bargaining inter alia foresee the following key changes:

- The role of judge in the proceedings will be increased;
- Plea agreement on sentence (nolo plea) will be revoked;
- The role of the victim in the plea-bargaining process will be enhanced - victim will have a right to be heard regarding the damage he/she has suffered;
- Prosecutor will be obliged to make a protocol on plea agreement reflecting the process of negotiation between prosecutor and defendant as prescribed by law;
Prosecutor will be obliged to present exhaustive list of circumstances/evidence which are sufficient for rendering a judgment without substantial consideration of case;

Obligation for the prosecutor to raise awareness of the defendant on legal consequences of the plea bargain agreement is established;

Explicit definition of the public interest is provided when deciding on the reduction of sentence, mitigation of charges or their partial removal, prosecutor shall take into consideration public interest-assessed on the basis of state legal priorities gravity of the committed offense and a likely sentence, defendant's risk to public security, level of infringement and guilt, defendant's personal characteristics, criminal record, cooperation with investigation and assessment of defendant's behavior towards compensating victim for damages incurred as a result of crime;

Right to appeal a court judgment on the plea agreement will be expanded - the convicted person will have a right to appeal such and request annulment of the judgment on approving a plea agreement, if plea agreement was concluded without evidence sufficient for rendering a judgment without substantial consideration of a case.

In March, 2014 the amendments were finalized and presented for approval before the Criminal Justice Reform Inter-Agency Council (ICC). The ICC approved the draft at its 11th Session on March 11, 2014. Draft will be submitted to the Parliament of Georgia for adoption in the nearest future. The guidelines will follow after the adoption of the relevant legislation.

Assessment of Progress

The reform of the criminal justice system has been launched in Georgia; a discussion regarding sanctions for passive bribery will take place in this framework. Regarding the plea bargaining, draft amendments were prepared to the Criminal Procedure Code, approved by the Criminal Justice Reform Inter-agency Council in March 2014, and will be submitted to the Parliament in the near future. The meeting welcomed these developments, but following the methodology for ratings which does not take draft laws into account, agreed that so far there is lack of progress regarding this recommendation.

14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

Measures taken to implement this recommendation

- Ensure that criminal sanctions for passive bribery are proportionate and dissuasive.

The implementation of this recommendation is to be ensured as a part of the overall revision of the Criminal Code (CC) of Georgia. In 2013 the General Part of the CC was finalized and in 2014 the intensive work within the framework of the Special Working Group of Criminal Law Experts on the revision of Special Part was carried out. Draft amendments were published on the web-portal of the Legislative Gazette of Georgia (www.matsne.gov.ge) on 30 June, 2014. It was submitted for international (CoE) expertise on 9 July, 2014. Next steps include work on systematization of the sanctions, among other issues addressing the recommendation in question.
- Review current system of plea bargaining to prevent abuse of prosecutorial powers, in particular by increasing the role of judge in the proceedings, adopting and making public guidelines for prosecutors on application of plea bargaining provisions.


**Assessment of Progress**

Recommendation regarding sanctions is in works. Recommendation regarding plea bargaining was addressed by amendments. **Progress.**


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- **Ensure that criminal sanctions for passive bribery are proportionate and dissuasive.**

As noted during previous reporting the implementation of this recommendation is to be ensured as a part of the entire revision of the Criminal Code of Georgia (CCG). In 2013 the General Part of the CCG was finalized and in 2014 the intensive work within the framework of the Special Working Group of Criminal Law Experts on the revision of Special Part was carried out. Draft amendments were published on the web-portal of the Legislative Gazette of Georgia ([www.matsne.gov.ge](http://www.matsne.gov.ge)) on 30 June, 2014. The draft law was submitted for international (CoE) expertise on 9 July, 2014. The final expertise is to be submitted by the expert in March, 2015 and afterwards discussions are to be held on further amendments and sanctions to be systematized/revised.

Moreover, noteworthy is that the Anti-Corruption Strategy (Chapter III) as well as new Action Plan (Result 5.6.) has a special part on elaboration of legislative amendments with the aim to implement international recommendations (OECD-ACN, GRECO, UNCAC), among them revision of criminal sanctions for passive bribery in accordance with the OECD-ACN recommendation. (See the attachment – Unofficial translation of the Anti-Corruption Action Plan (2015-2016).

- Review current system of plea bargaining to prevent abuse of prosecutorial powers, in particular by increasing the role of judge in the proceedings, adopting and making public guidelines for prosecutors on application of plea bargaining provisions.

As reported during previous reporting period, the respective amendments entered into force on 24 July, 2014.

**Assessment of Progress - 15th Plenary**

Amendments to the General Part of the Criminal Code were finalized, amendments to the Special Part are underway (they were published on the web-portal of the Legislative Gazette of Georgia in June, 2014, and were submitted for international (CoE) expertise in July, 2014,
results are expected in March, 2015). After that, the Part on sanctions will be revised. The Anti-Corruption Strategy (Chapter III) as well as new Action Plan (Result 5.6.) has a special part on elaboration of legislative amendments with the aim to implement international recommendations, among them revision of criminal sanctions for passive bribery in accordance with the OECD-ACN recommendation. There is progress.

**Recommendation 6**

Review Criminal Procedure Code provisions limiting duration of time a person can be considered a defendant after charges have been brought against him and, if necessary, amend them to allow flexibility in the post-indictment prosecution.

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### 13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

**Measures taken to implement this recommendation**

No new information as of now.

**Assessment of Progress**

No information was provided regarding measure to implement this recommendation; the meeting decided that there is lack of progress.

### 14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

**Measures taken to implement this recommendation**

No new information as of now. Georgian delegation argued during the meeting that this recommendation was not necessary as current legislative provisions provide all necessary conditions for effective prosecution.

**Assessment of Progress**

Lack of progress.


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Review Criminal Procedure Code provisions limiting duration of time a person can be considered a defendant after charges have been brought against him and, if necessary, amend them to allow flexibility in the post-indictment prosecution.

With the aim to implement recommendation regarding limitation duration of time a person can be considered a defendant after charges have been brought against, the consultations with the representatives from Chief Prosecutor’s Office were held. During discussions the Monitoring Report and recommendations were discussed in detail and members of the meeting concluded that the information reflected in the Report does not fully reflect the legislation as well the existing practice. Particularly, according to paragraph 8 of Article 169 of the Criminal Procedure
Code of Georgia referred in the Report, indeed the time limit for a person to have the status of defendant after indictment is limited; however, it is of crucial importance that the time is limited only before the first pre-trial hearing is held. As the paragraph 8 of Article 169 states “a person shall not bear the status of a defendant for more than 9 months before first pre-trial hearing, unless he/she was charged for the commission of another crime prior to the expiration of this term”. Thus, the post-indictment prosecution is not limited by 9 months but rather continues until the final decision of the court is not made.

Assessment of Progress - 15th Plenary

Consultations with the representatives from Chief Prosecutor’s Office were organized to review this recommendation. However, Georgia argues that the assessment of the report is not correct and that the law and the practice do not in reality limit the post-indictment prosecution. There is progress, but the substance of the recommendation will need to be reviewed in the next round of monitoring.

Recommendation 7

In order to ensure that the prosecution service can effectively and autonomously investigate and prosecute corruption cases, review procedures for appointment and dismissal of the Chief Prosecutor, as well as procedures for disciplining and dismissal of other prosecutors.

Consider excluding investigation function from the prosecution service and approve guidelines for withdrawing/referring criminal cases from/to an investigative agency. Establish specialisation of prosecutors (units or persons) in prosecution of corruption-related offences.

13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation

- In order to ensure that the prosecution service can effectively and autonomously investigate and prosecute corruption cases, review procedures for appointment and dismissal of the Chief Prosecutor, as well as procedures for disciplining and dismissal of other prosecutors.

No new information as of now.

Consider excluding investigation function from the prosecution service and approve guidelines for withdrawing/referring criminal cases from/to an investigative agency.

No new information as of now.

- Establish specialisation of prosecutors (units or persons) in prosecution of corruption-related offences.

In order to ensure specialisation of prosecutors in corruption-related offences, the trainings in this area have been included in the 2014 Annual Training Plan of the Chief Prosecutor's Office.
In 2014, the Chief Prosecutor's Office plans to organize training programs for prosecutors and investigators on the issues of organized and corruption-related crimes.

**Assessment of Progress**

According to TI Georgia, the level of independence of the chief prosecutor has increased in practice. While this is a positive development in practice, the recommendation requires specific actions in order to ensure the independence in a sustainable manner, and there has been no substantial progress to implement those specific actions. The meeting therefore agreed that there is a lack of progress in this area.

**14th ACN Istanbul Action Plan Meeting on 8-10 October 2014**

**Measures taken to implement this recommendation**

LEPL Academy of the MIA carries out special vocational education programs for patrol police officers, district inspectors, border guards, detective-investigators and promotion candidates. “Corruption and Malfeasance” course is conducted within the scope of the vocational trainings. Graduate of the course will be able to fully comply with the legal requirements and respond to the corruption crimes accordingly.

25 staff members of the Anti-Corruption Agency of the MIA underwent trainings according to the relevant curriculum that includes the issues of the Law of Georgia on Conflict of Interest and Corruption in the Public Service; Anti-Corruption Council; Law of Georgia on Public Service, etc. 22 staff members are currently trained within the same training course.

**Assessment of Progress**

No actions were taken regarding the independence and specialisation in the prosecution service. No progress.


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- In order to ensure that the prosecution service can effectively and autonomously investigate and prosecute corruption cases, review procedures for appointment and dismissal of the Chief Prosecutor, as well as procedures for disciplining and dismissal of other prosecutors.

On 18 December, 2014 the Prime-Minister of Georgia announced that with the aim to increase independence, accountability and transparency of the Prosecution Service of Georgia an institutional reform of the Service will be initiated.
In this way, on December 27, 2014 at the 13th Session of the Criminal Justice Reform Inter-Agency Coordination Council chaired by the Minister of Justice, the discussion was opened on the institutional reform of the Prosecution Service of Georgia. The institutional reform aimed at increasing independence and transparency of Prosecution Office while taking into account international standards and recommendations addressed to Georgia. The participants of the Session agreed that despite the institutional model of the Prosecution Service, the reforming process shall result in well-organized and comprehensive mechanism of Prosecution Service.

As a first stage of the reform a comprehensive and large-scale comparative-legal research was prepared by the Ministry of Justice of Georgia. Comparative-legal research/study of international standards and best practices on the Prosecution systems comprises international standards, recommendations of international organizations as well as national legislations of 20 countries, including autonomous and partially autonomous prosecution systems and those systems which are also part of judiciary. The Prosecution service (and respective elements with regard to accountability, transparency, independence, appointment and dismissal of Chief Prosecutor, disciplinary grounds and procedures) of each country was researched, scrutinized, examined, summarized, analyzed and accordingly presented in the document. After finalization the comparative-legal research was submitted to the Criminal Justice Reform Inter-Agency Coordination Council for further discussion and consideration in February 2015.

In 2015 the GoG will continue the reform of the Prosecutor's Office aimed at ensuring CPO's independence from political and other influences on the one hand, and public monitoring and accountability to the society on the other.

At the same time, furthermore, the Office of the Chief Prosecutor of Georgia is currently working on the manual which will define the procedures for the appointment, promotion, disciplining and dismissal of the staff of the Prosecution Service of Georgia. After drafting the manual it will be submitted to the Ministry of Justice for its approval.

- Consider excluding investigation function from the prosecution service and approve guidelines for withdrawing/referring criminal cases from/to an investigative agency.

In 2014, the Prosecution Service of Georgia drafted the Guidelines for withdrawing criminal cases from one investigative agency and referring them to another one. The draft Guidelines define the following grounds for withdrawing/referring criminal cases from/to an investigative agency:

a) The majority of the participants of criminal proceedings live on the territory over which another investigative agency has jurisdiction and referring case to this investigative authority facilitates the participation of the mentioned persons in investigation/procedural actions;

b) Most of investigation/procedural actions are expected to be conducted on the territory over which another investigative agency has jurisdiction;

c) Urgent investigation actions have been conducted by other investigation agency and referring the case to another investigation agency will cause the delay in making the summarizing decision in the case or will adversely affect the interests of investigation;

d) The crime was revealed by another investigative agency;
e) The transfer of the case to another investigative agency will significantly reduce the procedural expenses;

f) The transfer of the case to another investigative agency will promote thorough and objective investigation.

The Guidelines referred will be submitted to the Minister of Justice Georgia for approval in the first half of 2015.

- Establish specialisation of prosecutors (units or persons) in prosecution of corruption-related offences.

In January 2015, Anti-Corruption Unit was established within the Chief Prosecutor's Office of Georgia. The Unit will be staffed by 2 prosecutors, 2 senior investigators of especially important cases and 5 investigators of especially important cases who have knowledge and experience in the investigation and prosecution of corruption and corruption related crimes. Despite this, the Office of the Chief Prosecutor of Georgia plans additional trainings for the staff of newly created Unit in the field of the investigation and prosecution of the crimes referred to above.

Moreover, as already indicated above, Prevention of Corruption in the Law-Enforcement Bodies, Effective Detection and Prosecution of Corruption-Related Crimes (Priority 5) represents one of 13 Strategic Priorities of the Anti-Corruption Strategy and Action Plan (2015-2016). Particularly, Result 5.2. (Priority 5) of the Action Plan aims at ensuring effective investigation and prosecution of corruption-related crimes and for this reason foresees the following activities:

5.2.1. Creation of special division on corruption related crimes and ensuring specialization of prosecutors;

5.2.2. Increasing resources and strengthening the capacity of the Anti-Corruption Agency of the Ministry of Internal Affairs; increasing qualification of employees of the Agency;

5.2.3. Increasing transparency of the Anti-Corruption Agency of the Ministry of Internal Affairs;

5.2.4. Training of employees and candidates of the Ministry of Internal Affairs based on the special professional program "Corruption and Malfeasance". (See attachment – Unofficial translation of the Action Plan).

Assessment of Progress - 15th Plenary

On 18 December, 2014 the Prime-Minister of Georgia announced that with the aim to increase independence, accountability and transparency of the Prosecution Service of Georgia an institutional reform of the Service will be initiated. The Ministry of Justice prepared a research of international standards and best practices on the Prosecution systems. However, it did not result yet in any substantive changes yet.

The Office of the Chief Prosecutor is currently working on the manual which will define the procedures for the appointment, promotion, disciplining and dismissal of the staff of the Prosecution Service. After drafting the manual it will be submitted to the Ministry of Justice for its approval. This is also a good initiative, but it did not produce tangible results yet.
In 2014, the Prosecution Service drafted the Guidelines for withdrawing criminal cases from one investigative agency and referring them to another one; the Guidelines will be submitted to the Minister of Justice Georgia for approval in the first half of 2015.

In January 2015, Anti-Corruption Unit was established within the Chief Prosecutor’s Office of Georgia. The Unit will be staffed by 2 prosecutors, 2 senior investigators and 5 investigators. Creation of special division on corruption related crimes and ensuring specialization of prosecutors is also included as one of the elements of the Strategic Priority 5 of the Anti-Corruption Strategy and Action Plan (2015-2016).

Progress.

Previous recommendation 2.7.

Ensure effective international mutual legal assistance in the investigation and prosecution of corruption cases, in particular by providing for the use of video cameras during depositions, mandated confidentiality of a request, formation of joint investigative groups.


13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation:

- Ensure effective international mutual legal assistance in the investigation and prosecution of corruption cases, in particular by providing for the use of video cameras during depositions, mandated confidentiality of a request, formation of joint investigative groups.

At this stage, no measures have been taken to implement this part of the recommendation.


Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters was signed by Georgia on March 25, 2013 and ratified by the Parliament of Georgia on October 4, 2013.

In the beginning of 2013 the Ministry of Internal Affairs elaborated the draft Law of Georgia on International Law Enforcement Cooperation for efficient international cooperation in the field of prevention, detection, and suppression of crimes, including corruption-related crimes. The Law was adopted by the Parliament of Georgia on October 4, 2013. According to the Law, the international law enforcement cooperation is realized on the basis of international treaties, principle of reciprocity and ad hoc decision made by the head or deputy head of the respective law enforcement agency. This Law fully implements the obligations regarding international law enforcement cooperation arising from the relevant bilateral and multilateral international treaties of Georgia, especially from Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.
14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

Measures taken to implement this recommendation

- Ensure effective international mutual legal assistance in the investigation and prosecution of corruption cases, in particular by providing for the use of video cameras during depositions, mandated confidentiality of a request, formation of joint investigative groups.

No new information as of now.


This part of recommendation has been implemented during the previous reporting period.

Assessment of Progress

The second part of the recommendation was implemented in the previous reporting period. No new progress.


Measures taken to implement the recommendation

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

Measures taken to implement this recommendation

- Ensure effective international mutual legal assistance in the investigation and prosecution of corruption cases, in particular by providing for the use of video cameras during depositions, mandated confidentiality of a request, formation of joint investigative groups.

In 2013 the Parliament of Georgia approved the amendments to the Law of Georgia on International Cooperation in Criminal Matters. Following these amendments, the Law defined detailed procedures related to the compliance with the confidentiality requirement as well as the creation of joint investigation teams and holding video and audio conferences. During the past years Georgia received a number of MLA requests where the compliance with the confidentiality requirement was asked by the respective foreign states. In all these cases, Georgia complied with the confidentiality requirement. In addition, in 2014 the competent Georgian authorities arranged a video conference upon the request of the relevant foreign state and one of the witnesses being in custody in Georgia was interrogated through the video camera.
conference from the court room (This information was not covered by the previous reporting periods).

As for the joint investigation teams, they have not been created so far. However, in case of necessity, the relevant Georgian authorities are able to establish such teams since the Law on International Cooperation in Criminal Matters provides possibility of their creation.

- **Sign and ratify Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.**

This part of recommendation has been implemented during the previous reporting period.

**Assessment of Progress - 15th Plenary**

Video conference was used once for interrogating a witness on the request of a foreign state. This is a good example, however, one example may not yet constitute progress in implementing the recommendation. This example shows that the possibility for providing for the use of video cameras during depositions is ensured and was also used in practice. **Progress.**

### PILLAR 3. PREVENTION OF CORRUPTION

**Previous recommendation 3.2.-3.3.**

*In order to ensure integrity and consistent development of public service it is necessary to:*

i. Decide on the conceptual direction of the public service reform and review legal and institutional framework accordingly as soon as possible, while ensuring that impartiality, legality and political neutrality are integral principles of the reform;

ii. Further strengthen the system of merit-based employment and promotion, build capacity of the Public Service Bureau and individual institutions in the application of merit-based rules;

iii. Ensure that remuneration of public officials is transparent and predictable;

iv. Ensure that the rules on conflicts of interest are enforced in practice and clarify the roles of different institutions; raise awareness and provide regular training on conflict of interests to civil servants and managers of individual institutions; consider verifying the information provided in the asset declarations of public officials.

#### 13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

**Measures taken to implement this recommendation**

- Decide on the conceptual direction of the public service reform and review legal and institutional framework accordingly as soon as possible, while ensuring that impartiality, legality and political neutrality are integral principles of the reform.

Draft Civil Service Reform Concept has been elaborated and is awaiting approval by the Government of Georgia. The respective process in more detail is described below.
On 24 July 2013, the Government of Georgia established the Council for Elaboration of the Civil Service Reform Concept, consisting of representatives from 15 ministries and the Parliament chaired by the Head of the State Chancellery and co-chaired by the First Deputy Minister of Justice of Georgia. The Council was entrusted with the task of for elaboration of the Civil Service Reform Draft Concept (the Draft Concept) to create conceptual framework for the civil service reform and basis for the development of the strategy and action plan in this area. The Concept was developed as a result of the consultative process involving various stakeholders. The process was facilitated by the Good Governance in Georgia (G3) Program funded by USAID and other donors (EU/OECD SIGMA, UNDP, NATO’s Professional Development Office and the Government of Poland). For further information, please find attached the Draft Concept. After the adoption of the Concept by the Government the work on the Civil Service Reform Strategy and Action Plan will be initiated.

- **Strengthen the system of merit-based employment and promotion; build capacity of the Public Service Bureau and individual institutions in the application of merit-based rules.**

The Proposed Draft Civil Service Reform Concept provides for career advancement opportunities by competitive and merit-based appointment at higher levels and preferential internal recruitment, to ensure that civil service is entered through a competitive and merit-based selection process and to define the minimal qualification requirements for specific positions in accordance with their ranks.

Currently the rules in the field of competition and attestation are determined by the Ordinances of the President of Georgia; however, in accordance with recent amendments to the Law of Georgia on Civil Service, those rules should be adopted by Governmental Decree.

The CSB has developed the competition and attestation rules for the civil service and submitted to the Government for approval.

As regards the capacity building of CSB, the following progress has been made:

The main institution responsible for civil service development is the CSB and the Civil Service Council, which was recently subordinated to the Government of Georgia, instead of the President. Relevant decree has been approved by the Government of Georgia on 20 February, 2014. The Draft Concept support retaining the current two-level model – the Civil Service Council and the CSB, the enhancement of the CSB’s capabilities and resources is foreseen. Under the amendments to the Law of Georgia on Conflict of Interests and Corruption, the CSB is already responsible directly to the Prime Minister. A proposal for restructuring the CSB along with a new set of structures and functions for this agency is provided in the Concept.

- **Ensure that remuneration of public officials is transparent and predictable.**

Relevant proposals are foreseen by the Draft Civil Service Reform Concept (see above).

- **Ensure that the rules on conflicts of interest are enforced in practice and clarify the roles of different institutions; raise awareness and provide regular training on conflict of interests to civil servants and managers of individual institutions; consider verifying the information provided in the asset declarations of public officials.**
In November 2013, the CSB hosted a two day workshop which was organized to create a Guidebook on Ethics for Civil Servants. The main topics of the Guidebook and examples were agreed upon during the workshop. Moreover, the organizational frameworks and future plans were also discussed. The process of elaboration consists of several stages: a workshop, an elaboration of the Guidebook on Ethics, and the curriculum for the trainings on these matters. Furthermore, German experts will provide a training of trainers and certification. Also, USAID Good Governance in Georgia Program (G3) in partnership with the Prime Minister's Office organized a large scale training program for up to 3,000 civil servants in 2013. Within the project, one of the priority topics was ethics and conflict of interest issues. As to the asset declarations, CSB prepared amendments to the Law of Georgia on the Conflict of Interests and Corruption in Public Service. Amendment (N1661) was adopted on November 29, 2013 and entered into force on January 14, 2014. In accordance with the recent amendments the following positions were added to the list of high officials who are obliged to submit asset declarations:

- All Heads of Public Legal Entities and their Deputies;
- Deputies of the Heads of Subordinate Institutions;
- Deputy Heads of Departments in all State Ministers’ Offices;
- Heads of all Ministerial Divisions and their Deputies;
- Heads of Ltds and JSCs created with 100% State or Local-Government share participation, also Heads of their Subsidiary Companies.

Since the launch of the online asset declaration system, the introduction of the monitoring mechanism has become one of the primary issues for the CSB. The CSB has been working on implementation of the monitoring system since 2012. Research and two round table discussions were held with participation of international experts, non-governmental and governmental organizations. On March 12-14, the CSB conducted individual meetings with different stakeholders on the introduction of the asset declarations monitoring system. In addition, upon the initiative of CSB, GIZ hired expert who proposed relevant recommendations.

### Assessment of Progress

In July 2013, the Government established the Council for elaborating of the Civil Service Reform Concept. The draft Civil Service Reform Concept has been elaborated, in an inclusive consultative process. The draft Concept embraces European principles of public administration and values of merit-based civil service as legal predictability and accountability, impartiality, integrity, meritocracy and political neutrality. The draft Concept also aims to provide uniform standards for all civil servants and reduce discretion of managers with regard to employment and salaries of civil servants. As the conceptual direction of the civil service reform is not yet approved by the Government, the legal drafting of the new civil service law is not started. Therefore, the system of merit-based recruitment and promotion, transparent and fair remuneration as well as other measures to support a professional civil service system, is not yet fully in place and practice. The amendments of the Law on Conflict of Interest and Corruption in Public Service have been recently adopted and in force since January 2014, extending the asset disclosure requirements to the heads and deputy heads of legal entities of public law, heads of city and municipality services and heads and deputy heads of all ministerial divisions. However, the proper monitoring mechanism of asset declarations is still under development. Taking these
developments into account, the meeting agreed that they constitute progress in this very important reform area.

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14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

Measures taken to implement this recommendation

- Decide on the conceptual direction of the public service reform and review legal and institutional framework accordingly as soon as possible, while ensuring that impartiality, legality and political neutrality are integral principles of the reform.

The Civil Service Reform Concept was finalized in April, 2014. In the reporting period a number of meetings and discussions were held with various stakeholders and a few changes made to the Concept. In July, 2014 the Prime Minister of Georgia requested the Head of the Civil Service Bureau (CSB) to present the Concept individually to each Minister to provide each of them a deeper insight into the proposed reform initiatives envisaged by the Concept. The management of the line ministries was actively involved in this process of discussion of the Concept. The meetings once more showed that the conceptual direction (merit-based civil service) of the reform described in the Concept fully supported by the line ministries.

Next step is the presentation of the Concept and its approval by the Government. The draft Concept provides a solid basis for the new Law on Civil Service.

- Strengthen the system of merit-based employment and promotion; build capacity of the Public Service Bureau and individual institutions in the application of merit-based rules.

The CSB, with the support of the German Society for International Cooperation (GIZ), developed new regulations for conducting competition in civil service, which was approved by the Governmental Decree №412 on 18 July, 2014. New Decree was developed with the involvement of human resources managers of government agencies. The Decree provides for increased role of the CSB during competition and certification process.

Important initiative was put forward by the Prime Minister of Georgia in Spring, 2014 – the State Program of Internship in Civil Service. The CSB was entrusted with the new function to administer the program across the civil service in line with the Decree N410 of 18 June, 2014 of the Government of Georgia. The program is aimed at promoting the civil service jobs among the students, increasing the competition in civil service, preparing students for future career in civil service and thereby contributing to the development of the professional civil service in Georgia. Within the framework of the program, the Memorandum of Understanding was signed between the Administration of the Government, the CSB and 28 universities.

In addition, with the support of the USAID G3 program, international expert carried out assessment of functions of CSB and prepared comprehensive list of recommendations for strengthening its capacities. These recommendations will be the basis for future considerations to further increase the staff and capacities for the CSB in the 2015 budget cycle. In the meantime, 150,000 GEL was already added to the 2014 annual budget of the CSB and it was also given the possibility to hire 18 additional freelance staff members during 2014.
• **Ensure that remuneration of public officials is transparent and predictable.**

Although the Concept proposes vision for reformed system of remuneration in civil service, due to the inconsistent practice that existed throughout the civil service of Georgia for a long time, it was decided to elaborate the regulations that would fix the problem before the Concept is translated into the legislation. In May, 2014 with the initiative of the Prime Minister of Georgia, the Administration of Government of Georgia and the CSB developed the "Rules for Determining the Amount of Bonus in Public Institution". The Rules were approved on the 15 July, 2014 by the Governmental Decree №449. Thus, with this initiative remuneration system of civil service of Georgia was standardized. However, the issue will be tackled more comprehensively as a part of the civil service reform in the future.

• **Ensure that the rules on conflicts of interest are enforced in practice and clarify the roles of different institutions; raise awareness and provide regular training on conflict of interests to civil servants and managers of individual institutions; consider verifying the information provided in the asset declarations of public officials.**

In 2014, the CSB initiated the elaboration of the training guidelines and curriculum on ethics and conflict of interests. The dedicated module for workshops on ethics for public servants and the training of trainers will be designed as a result. The Guidelines will be finalised in November, 2014 and later, the trained trainers will conduct permanent trainings for existing and newly appointed public servants.

As to the asset declarations, the CSB continues to coordinate the processes related to the development of the asset declaration monitoring system in Georgia. Recently, it has created a Working Group consisting of representatives from a non-governmental organization, Ministry of Justice and Ministry of Finance, Financial Monitoring Service. Meetings of the Working Group are being held regularly. The Working Group will develop concrete proposals and legislative amendments which will be presented to the Government of Georgia by the end of 2014.

With the initiative of the Ministry of Regional Development and Infrastructure of Georgia amendments have been made to the Law of Georgia on the Conflict of Interests and Corruption in Public Service according to which the list of municipality officials who are obliged to submit asset declarations was expanded and thereby heads of structural units of municipality city halls/governments as well as Tbilisi City Hall/Tbilisi district governments were added to the scope of the Law. Amendments were approved by the Parliament of Georgia on 2 February, 2014 and entered into force after the results of Local Government elections were officially announced in July, 2014.

In addition, the issues of ethics and disciplinary procedures are foreseen by the draft Civil Service Reform Concept. The draft determines the scope for reform of disciplinary proceedings against civil servants and *inter alia* proposes elaboration of new types of disciplinary violations and sanctions; increasing transparency of proceedings, enhancing of enforcement mechanism, etc.

Amendments to the “Law on the Conflict of Interest and Corruption in the Public Service” (Chapter V) related to whistleblower protection entered into force in April 2014. Respective
measures have been carried out by the CSB in order to insure implementation of the amendments. CSB conducted training sessions and information meetings for around 60 civil servants throughout August 2014. CSB plans to take further steps in this regard, including through awareness raising and training sessions for civil servants.

### Assessment of Progress

The Civil Service Reform Concept was finalized in April, 2014; it should now be presented for approval by the Government. The CSB developed new regulations for conducting competition in civil service, which was approved by the Governmental Decree №412 on 18 July, 2014. The Decree provides for increased role of the CSB during competition. International expert carried out assessment of functions of CSB and prepared recommendations for strengthening its capacities. These recommendations will be considered under the 2015 budget cycle. In the meantime, 150,000 GEL was already added to the 2014 annual budget of the CSB and it was also given the possibility to hire 18 additional freelance staff members during 2014.

In May, 2014 with the initiative of the Prime Minister of Georgia, the Administration of Government of Georgia and the CSB developed the "Rules for Determining the Amount of Bonus in Public Institution". The Rules were approved on the 15 July, 2014 by the Governmental Decree №449. Thus, with this initiative remuneration system of civil service of Georgia was standardized.

In 2014, the CSB initiated the elaboration of the training guidelines and curriculum on ethics and conflict of interests. The Guidelines will be finalised in November 2014.

The CSB continues to coordinate the processes related to the development of the asset declaration monitoring system. Recently, it has created a Working Group to develop concrete proposals and legislative amendments which will be presented to the Government of Georgia by the end of 2014. Amendments have been made to the Law of Georgia on the Conflict of Interests and Corruption in Public Service according to which the list of municipality officials who are obliged to submit asset declarations was expanded and thereby heads of structural units of municipality city halls/governments as well as Tbilisi City Hall/Tbilisi district governments were added to the scope of the Law. In addition, the issues of ethics and disciplinary procedures are foreseen by the draft Civil Service Reform Concept.

Amendments to the “Law on the Conflict of Interest and Corruption in the Public Service” (Chapter V1) related to whistleblower protection entered into force in April 2014. Respective measures have been carried out by the CSB in order to insure implementation of the amendments. CSB conducted training sessions and information meetings for around 60 civil servants throughout August 2014.

The monitoring team agreed that there is progress in this important area of reforms.

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**Measures taken to implement the recommendation**

*(Brief summary of measures taken to implement recommendation provided by the National Coordinator)*
- Decide on the conceptual direction of the public service reform and review legal and institutional framework accordingly as soon as possible, while ensuring that impartiality, legality and political neutrality are integral principles of the reform.

On 19 November, 2014 the Government of Georgia approved the Civil Service Reform Concept by the Government Decree N627. The Concept provides a solid basis for drafting of a new Law on Civil Service by indicating the objectives of new legislation and presenting specific policy proposals and instruments to serve those needs. The recommendations for civil service reform are organized into 10 categories of civil service, among them rights and obligations of civil servants, training and improvement of their qualification, remuneration system, ranking and classification of positions, etc. These categories draw upon EU categorizations that have been used in other countries in transition and in long-term perspective it is expected to result in further development of a legal and institutional environment that is free of favoritism, unethical behavior and corruption. It is foreseen that new Civil Service Law will be drafted and presented to the Government of Georgia by the end of 2015.

- Strengthen the system of merit-based employment and promotion; build capacity of the Public Service Bureau and individual institutions in the application of merit-based rules.

In 2014, various important steps were taken towards the enhancement of the CSB capabilities and resources. The role of the CSB has been increased in human resources selection process and it was also charged to coordinate the internship process in the civil service as indicated during previous reporting period.

With the aim to equip the Civil Service Bureau with necessary material and human resources in 2014 additional funds were allocated from the CSB budget under the Decree #680 of the Government of Georgia. Furthermore, budget of the CSB was double increased for 2015, reorganization was conducted and new organizational structure was introduced to create strong, centralized institution, which should lead to the implementation and execution of the civil service reform process. These steps were taken to prepare the CSB to implement the important and challenging reforms outlined in the Concept. The Concept provides for career advancement opportunities by competitive and merit-based appointment at higher levels and preferential internal recruitment, to ensure that civil service is entered through a competitive and merit-based selection process and to define the minimal qualification requirements for specific positions in accordance with their ranks. According to the Concept, further actions will be taken in 2015 to build capacity of the CSB and individual institutions in the application of merit-based rules.

Moreover, according to the new anticorruption strategic documents, the role of the CSB shall be increased in order to introduce unified training module on ethics, conflict of interests and incompatibility; conduct periodic trainings of civil servants as well as raising public awareness on whistleblowers’ protection issues.

- Ensure that remuneration of public officials is transparent and predictable.

Relevant proposals are foreseen by the Civil Service Reform Concept, which will be reflected in the new Civil Service Law.
Ensure that the rules on conflicts of interest are enforced in practice and clarify the roles of different institutions; raise awareness and provide regular training on conflict of interests to civil servants and managers of individual institutions; consider verifying the information provided in the asset declarations of public officials.

The issues of conflicts of interest, ethics and disciplinary procedures are foreseen by the Civil Service Reform Concept, which determines the scope for comprehensive reform of disciplinary proceedings against civil servants and inter alia proposes elaboration of new types of disciplinary violations and sanctions; increasing transparency of proceedings, enhancing of enforcement mechanism, etc. New regulations will be reflected in the new Civil Service Law.

In the meantime, the draft Ethics Guidelines for civil servants were developed by the CSB describing the mandatory ethical norms and values for employees in the Civil Service. Furthermore, 8 local trainers has been educated to deliver quality training on ethics and whose quality has been evaluated and approved by the Training and Research Academy of the Federation of German Civil Servants. The expertise of trained trainers is long-termed enabling them to train Georgian civil servants for many years.

Many important steps were taken for the implementation of Asset Declaration Monitoring System for public officials. Namely, a several meetings of the ad hoc Working Group created in 2014 by the CSB took place as well as extensive research and important workshops were held to develop a concept of the system. The general outline of the concept and recommendations elaborated by the ad hoc WG were presented at the ACC Session on 4 February, 2015. At the same session the ACC decided to establish a special Working Group within the framework of the ACC with broader participation of government agencies and involvement of civil society representatives (members of the ad hoc WG created by the SCB are included in the membership as well). The Group was tasked to finalize the concept and submit recommendations before the ACC at its next session. Afterwards, the recommendations prepared by the Working Group will be submitted to the Government of Georgia for further discussions. The first meeting of the Working Group will be held on 5 February, 2015.

**Assessment of Progress - 15th Plenary**

On 19 November, 2014 the Government of Georgia approved the Civil Service Reform Concept. It is foreseen that new Civil Service Law will be drafted on the basis of this Concept and presented to the Government by the end of 2015. In December 2014, a special working group was established, including representatives from the Civil Service Bureau, the Ministry of Justice, the Administration of Government and Grigol Robakidze Univerisity, for drafting the new Civil Service Law. As of February 2015, two meetings have been held to discuss and agree the detailed table of contents and the two first chapters of the law.

In 2014 additional funds were allocated to the CSB budget under the Decree of the Government. The CSB’s budget will double in 2015 to ensure its capacity to support the implementation of the reforms outlined in the Concept; new organizational structure was introduced in the CSB to create strong, centralized institution, which should lead to the implementation and execution of the civil service reform process.
The draft Ethics Guidelines for civil servants were developed by the CSB describing the mandatory ethical norms and values for employees in the Civil Service. 8 local trainers have been educated to deliver quality training.

In February 2015, a special Working Group was established by the ACC to prepare the implementation of Asset Declaration Monitoring System for public officials. Two meetings of the WG were already held and proposals by members were discussed, There are no yet tangible outcomes from this Group.

According to TI Georgia, there were two notable developments. In late 2014, the majority of Georgia's municipalities adopted regulations on bonuses. This is an important step forward since bonuses were previously unregulated and there were significant opportunities for abuse. However, the new regulations are ambiguous in a number of areas and contain important gaps, so further progress is required.

Also, testing of civil servants for the evaluation of the rehire of current staff began in a number of local government bodies in late 2014, although only a small minority of municipalities have become involved in the process as of February 2015.

Some progress.

Recommendation 8

- Implement the Financial Management and Control part of the PIFC law and assess the anti-corruption measures built in the existing Financial Management and Control.
- Finalize the establishment of Internal Audit Units in all ministries of Georgia. Establish Internal Audit Units in the state-owned (controlled) companies and in the municipalities and ensure that the internal audit function is not mixed in practice with financial inspections (both institutionally and operationally).
- Establish additional provisions for ensuring independence of the Internal Audit Units. Consider introducing approval of appointment and dismissal of the head of Internal Audit Unit by an external body – e.g. by Central Harmonization Unit.
- Provide regular training for the staff of the Internal Audit Units with special attention paid to detecting and analysing signals of possible corruption.
- Consider establishing statistic and other indicators that allow assessment of the efficiency of the Internal Audit Units and their contribution to the prevention of corruption.
- Ensure the institutional and operational independence of the State Audit Office.
- Establish in the State Audit Office a review system to monitor the functioning of the Financial Management and Control and Internal Audit with regard to combating corruption.

13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation

- **Implement the Financial Management and Control part of the PIFC law and assess the anti-corruption measures built in the existing Financial Management and Control.**

In order to enhance financial management and control system within public agencies, in October 2013 the Central Harmonization Unit, with the support of the European Union
implemented the risk management project. After selecting the Ministry of Sports and Youth Affairs of Georgia for a pilot, the working meetings, trainings and presentations regarding risk management and strategic planning were organized by the representatives of Central Harmonization Unit and relevant international experts. The project assisted managers of the Ministry of Sports and Youth Affairs to be informed about the risk management, its importance and to create necessary templates.

- **Finalize the establishment of Internal Audit Units in all ministries of Georgia.** Establish Internal Audit Units in the state-owned (controlled) companies and in the municipalities and ensure that the internal audit function is not mixed in practice with financial inspections (both institutionally and operationally).

By the end of 2013, Internal Audit Units were established in remaining four ministries – Ministry of Justice, Ministry of Internal Affairs, Ministry of Defence and Ministry of Correction. Thus, currently all ministries of Georgia have the Internal Audit Units.

In particular, the Internal Audit Unit was established in the Ministry of Internal Affairs (MIA) in December 2013. The functions of the Unit are defined in the Statute of the MIA, which include the following - identification of potential risks in activities of the Ministry, assessment of management quality, as well as assessment of legality and purpose of expenditures, utilization, management and protection of state funds; etc. The Internal Audit Unit is directly subordinated to the Minister Internal Affairs.

Internal Audit Department was also established in the Ministry of Defence (MOD) in December, 2013 as well. Respective changes have been made to the MOD bylaw. Currently, the MOD is in the process of recruiting the Head of Department and staff through an open competition. The Internal Audit Department will be responsible for auditing activities of the MOD and drafting relevant recommendations for mitigation of corruption, inefficiency and other risks. The Internal Audit Department is directly subordinated to the Minister of Defence.

The Statute of Internal Audit Department of the Ministry of Justice was adopted on January 28, 2014 based on the Decree of the Minister of Justice N4. The Head of the Internal Audit Department is appointed by the Minister.

The Statute of the Internal Audit Service of the Ministry of Correction was adopted on December 31, 2013 based on the Decree of the Minister of Correction N378. The Head of the Internal Audit Service is appointed by the Minister.

Since August 2013, internal control structures have been established in 12 additional municipalities of Georgia (among them the municipalities of Adjara).

- **Establish additional provisions for ensuring independence of the Internal Audit Units. Consider introducing approval of appointment and dismissal of the head of Internal Audit Unit by an external body – e.g. by Central Harmonization Unit.**

The revision of the Law on Public Internal Financial Control has been launched in the second half of 2013, aimed at refinement of the legal text, clarification of vague definitions and strengthening the independence of the Central Harmonization Unit. There is the discussion on-
going regarding the new rules on appointment of head of Internal Audit Units as a part of this process.

- **Provide regular training for the staff of the Internal Audit Units with special attention paid to detecting and analysing signals of possible corruption.**

The Central Harmonization Unit initiated intensive course for internal auditors on fraud and corruption prevention by the end of 2013. The training course contributed towards enhancing and deepening the knowledge of internal audit approaches in terms of fighting corruption. The training course was organized with the support of the GIZ, 38 auditors participated in the training. By the end of 2013, 18 auditors already underwent an additional training course on efficiency audit.

- **Consider establishing statistic and other indicators that allow assessment of the efficiency of the Internal Audit Units and their contribution to the prevention of corruption**

The authorities of internal audit units prepare annual reports and submit it to the Central Harmonization Unit for the assessment of the reform development process. Based on the annual reports, strategic and annual plans, Central Harmonization Unit assesses the performance of internal auditors and plans the measures needed to increase the capacity of internal auditors. It is planned to update the annual report template in 2014, strengthening the focus on corruption prevention framework.

- **Ensure the institutional and operational independence of the State Audit Office.**

In order to ensure independence of the State Audit Office (SAO), with the support of the GIZ a project aimed at identifying and recommending effective mechanisms and best practices of cooperation between the SAO and the Parliament was initiated.

Working meetings have been organised involving the members of the Budget and Finance Committee of the Parliament, SAO and GIZ with a view to establish the policies and procedures enabling the Parliament to undertake legislative scrutiny of the SAO audit reports in a timely manner, enhance the extent and depth of hearings on audit reports and identify further actions to be taken with respect to enforcing key audit findings and recommendations issued to the Executive audited bodies. To this end, the Budget and Finance Committee has initiated the drafting of the Resolution regulating the activities of the Working Group within the Committee responsible for scrutinizing and following-up on SAO audit reports. As soon as the draft Resolution is finalised and submitted for discussion, the SAO will be in a position to provide an opinion on as to whether the proposed regulations and the modus operandi of the Working Group provide an effective platform for supporting the parliamentary oversight over SAO work.

- **Establish in the State Audit Office a review system to monitor the functioning of the Financial Management and Control and Internal Audit with regard to combating corruption.**

The SAO has developed an annual rating system for public sector entities, which aims to perform institution-wide measurement and evaluation of the effectiveness of public sector
management, including but not limited to the areas of public financial control and internal audit. The primary objective of the assessment is to identify and report on the best practices observed in high-performing entities, as well as to identify systemic deficiencies and specific areas in need of further improvement, to enhance overall public sector performance at large, while maintaining a strong focus on public financial management, control and internal audit. The rating system relies on a set of 58 carefully developed questions divided into following 6 categories:

1. Strategic and human capital management; sustainable development issues;
2. Financial management, budgeting and control cycle;
3. Financial accounting and reporting;
4. Procurement cycle management;
5. Management of public assets;
6. Internal audit effectiveness.

Apart from reporting on the results of the rating reviews in individual audit reports submitted to the Parliament, the SAO will, among other criteria, use the results as an input in its annual risk-based audit planning.

Assessment of Progress

The work to implement Financial Management and Control part of the IFC law has begun. The Central Harmonisation Unit was established in October 2013. Internal Audit units were established in the remaining four ministries, and internal control structures have been established in 12 municipalities. The Central Harmonisation Unit provided a training course to internal auditors on fraud and corruption. Internal audit units prepare annual reports to the Central Harmonisation Unit that allows assessing and improving the capacity of the units to prevent corruption. The Central Harmonisation Unit considered participating in the appointment/dismissal of internal audit units heads, but decided not to take a part in this process. Regarding the SAO, TI Georgia reported that it enjoyed more independence in practice since parliamentary elections in 2012. But no institutional and legal improvements were reported by the government as yet; a project aiming to improve SAO’s independence was launched, but no substantive results were produced yet. The SAO has developed an annual rating system for public sector institutions which may in the future allow it to review the functioning of the financial management and control system with regard to corruption. There is progress in implementing this recommendation.

14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

Measures taken to implement this recommendation

- Implement the Financial Management and Control part of the PIFC law and assess the anti-corruption measures built in the existing Financial Management and Control.

In order support the process of implementation of the financial management and control system, the Central Harmonization Unit (CHU) with the assistance of OECD/SIGMA international
experts is conducting assessment of the situation in public sector. After the assessment is made, the experts with the CHU members will draft the report based on which the CHU will prepare the Policy Paper setting out the details for PIFC reform implementation for the upcoming three years. In addition, the CHU will prepare the Manual for FMC Rules and Procedures and adopt this document by the end of 2014.

- **Finalize the establishment of Internal Audit Units in all ministries of Georgia.**
  - Establish Internal Audit Units in the state-owned (controlled) companies and in the municipalities and ensure that the internal audit function is not mixed in practice with financial inspections (both institutionally and operationally).

By September, 2013 Internal Audit Units were established in all 16 ministries, including the Ministry of Justice, Ministry of Internal Affairs, Ministry of Defence and Ministry of Corrections and Legal Assistance. Process of establishing Internal Audit Units within municipalities is underway. 24 municipalities (Including Tbilisi City Hall) out of 67 already have created Internal Audit Units and/or are in recruitment process. The CHU prepared the strategy paper which will allow the Government to create IAUs within the high risk LEPLs. The CHU members took several criteria for assessing the risks: e.g. budget execution, amount of own income, quantity of the employees. Some LEPLs already have IAUs (e.g. Fond of Municipal Development).

- **Establish additional provisions for ensuring independence of the Internal Audit Units. Consider introducing approval of appointment and dismissal of the head of Internal Audit Unit by an external body – e.g. by Central Harmonization Unit.**

The PIFC Law provides for the independence of IAUs, as it states that the IAU directly reports to the Head of Institution. Although, prepared amendments to the PIFC Law includes strengthening the CHU and raising its role in appointment and dismissal of the heads of IAUs. Mentioned amendments were prepared by the CHU. The proposed amendments had been sent to all internal audit units and SAO.

- **Provide regular training for the staff of the Internal Audit Units with special attention paid to detecting and analysing signals of possible corruption.**

The CHU in cooperation with GIZ regularly provides trainings for the staff of the Internal Audit Units using local trained trainers or the international experts from EU countries. Training session includes basics of internal audit, advanced trainings as well as specific trainings related to prevention of fraud and corruption. In 2014, important activities are planned to be held in Autumn, particularly the training course about anti-corruption activities in regards with the audit for 25 internal auditors from different institutions; a regional conference with attendance of Armenian colleagues, as well as study visit to Germany on the topic of prevention of fraud and corruption, exchange of experience with the assistance of local experts.

- **Consider establishing statistic and other indicators that allow assessment of the efficiency of the Internal Audit Units and their contribution to the prevention of corruption**

The heads of Internal Audit Units prepare annual reports and submit it to the Central Harmonization Unit for the assessment of the reform development process. Based on the annual
reports, strategic and annual plans, the Central Harmonization Unit assesses performance of internal auditors and plans necessary measures aimed at increasing the capacity of internal auditors. It is planned to update the annual report template in 2014 (as new Manual for Internal Auditing will be adopted) by strengthening the focus on corruption prevention framework.

- **Ensure the institutional and operational independence of the State Audit Office**

A project aimed at identifying and recommending effective mechanisms and the best practices of cooperation between the SAO and the Legislature was initiated by the SAO within the framework of international cooperation with GIZ (The Deutsche Gesellschaft für Internationale Zusammenarbeit).

Working group meetings have been organised involving the members of the Budget and Finance Committee of the Parliament, SAO and GIZ with a view to establish the policies and procedures, which would enable the Parliament to undertake legislative scrutiny of the SAO audit reports in a timely manner, enhance the extent and depth of hearings on audit reports and identify further actions to be taken with respect to enforcing key audit findings and recommendations issued to the Executive audited bodies. To this end, the Budget and Finance Committee has started to draft a Resolution regulating the activities of the working group within the Committee responsible for scrutinizing and following-up on SAO audit reports. As soon as the exposure draft Resolution is finalised and issued for discussion, the SAO will be in a position to provide an opinion on as to whether the proposed regulations and the modus operandi of the Working Group provide an effective platform for supporting the parliamentary oversight over the government through our work. However, unless relevant amendment is introduced to the Law on the State Audit Office to converge it with INTOSAI Mexico Declaration Principle 3, the extended authority as stipulated by the said amendment of the Commission to audit legal, organizational performance, control of audit quality and internal procedures of the SAO will remain to represent a significant impairment to the independence of the SAO.

To further raise awareness on the importance of the existence of adequate legal safeguards sufficient to ensure institutional and operational independence, the SAO appealed to the Working Group on Independent State Bodies of the Commission on the Constitutional Issues (CCI). The letter addressed to the CCI outlined existing threats to independence emanating from the Constitution, putting a special emphasis on the need of reinforcing the fundamental constitutional guarantees of independence of SAO in practice. To this end, the SAO has proposed respective constitutional amendments to mitigate the identified risks.

Pursuant to paragraphs 2; 4 of Article 97 of the Constitution “The SAO is **independent in carrying out its activities**...”, “The mandate of the SAO, organization, the rules of procedure and **independence guarantees shall be established by the Law**”, stressing the fundamental significance of adequate independence safeguards, which forms the cornerstone principle of independence and is an essential prerequisite for due and effective discharge of the SAO mandate and audit authority. Hence, the above constitutional provisions, in addition to calling for the Legislature to set up a sound and predictable legal framework sufficient to ensure financial, operational and institutional independence of the SAO, the ability of the Legislature to enact legal provisions that effectively overrule and undermine the essential constitutional nature of independence is inherently restricted. However, should legal provisions be enacted by the Legislature that effectively pose a risk of impairment to the independence of SAO or
otherwise infringes upon its constitutional authority, the Constitution itself does not provide a legal basis for the SAO to dispute on the constitutionality of legal enactments passed by the Legislature in the Constitutional Court, since pursuant to Article 89 of the Constitution, the SAO does not have an authority of appeal to the Constitutional Court. Consequently, in order to ensure the existence of legal mechanisms of due protection of constitutional right to independence, as well as mandate of the SAO, we proposed that constitutional amendments be introduced, which would enable the SAO to appeal to the Constitutional Court to dispute on the constitutionality of normative acts passed by the Legislature.

Furthermore, to ensure due legal guarantees of independence, as well as to contribute to a more effective discharge of SAO functions, SAO proposes legislative acts regulating its activities, authority and rules of procedures to be of sufficiently higher legislative hierarchy; i.e. the Organic Law, as opposed to the Law (as is the case with other independent state bodies, such as the National Bank of Georgia).

- **Establish in the State Audit Office a review system to monitor the functioning of the Financial Management and Control and Internal Audit with regard to combating corruption**

The State Audit Office has devised an annual rating system for public sector entities, which aims to perform institution-wide measurement and evaluation of the effectiveness of public sector management, including but not limited to the areas of public financial control and internal audit. The primary objective of the assessment is to identify and report on the best practices observed in high-performing entities, as well as to pinpoint to systemic deficiencies and specific areas in need of further improvement to enhance overall performance of the public sector performance at large, while maintaining a strong focus on public financial management, control and internal audit. The rating system relies on a set of 58 carefully developed questions divided into 6 categories (see information from previous reporting period).

Apart from reporting on the results of the rating reviews in individual audit reports submitted to the Parliament, the SAO will, among other criteria, use the results as an input in its annual risk-based audit planning.

The assessment is currently being performed for all major public sector entities. Respective scores of the the results of the evaluation will be taken into consideration in devising the annual 2015 risk-based audit plan of the SAO.

**Assessment of Progress**

Sustainability of the PIFC reform is the biggest problem in Georgia, and many ad hoc and donor driven decisions are made without a clear vision of the overall reforms and desired results. The Central Harmonization Unit (CHU) with the assistance of SIGMA is conducting assessment of the PIFC in public sector. On this basis, they will draft a Policy Paper for PIFC reform implementation for the upcoming three years. Implementing FMC will take time. The PIFC law amendments are still in the pipe line.
The Risk management project in the Ministry of Sports and Youth Affairs was a good initiative, but it did not lead to a successful outcome: the Ministry was informed about the risk management, necessary templates were created, but there was no follow up.

According to SIGMA, the Treasury control on compliance of budget spending is well-developed. However, there is no attention for cost and corruption.

The establishment of IAUs has continued in 2014, but the quality of their work needs further improvements. The IA function is still combined with the inspection function. Internal Audit Units were established in all ministries and 24 out 67 municipalities. The CHU prepared the strategy paper which will allow the Government to create IAUs within the high risk LEPLs. No IAUs were established in LEPLs or SOEs. The quality of the IAUs differs very much, but all of them are understaffed. The CHU prepared amendments to the PIFC Law that will strengthen its role in appointment and dismissal of the heads of IAUs. The amendments are still not approved. However, legislative amendments alone are not sufficient for guaranteeing independence of IAUs and strong position of CHU.

The auditors are provided with regular training, also in anti-corruption, but the qualification of internal auditors needs further improvements. There is no information about the quality of course. There is no budget for training. The heads of IAUs prepare annual reports and submit it to the CHU for the assessment of the reform development process. Based on the reports, the CHU assesses performance of internal auditors and plans necessary measures aimed at increasing the capacity of internal auditors. It is not known if reports are based on statistics or other criteria.

Manual for FMC Rules and Procedures will be prepared and adopted by the end of 2014 by CHU, but the quality of the Manual will need to be examined.

Regarding the SAO, working group meetings were organized to establish the policies and procedures which would enable the Parliament to undertake legislative scrutiny of the SAO audit reports in a timely manner, enhance the extent and depth of hearings on audit reports and identify further actions to be taken with respect to enforcing key audit findings and recommendations issued to the Executive audited bodies. The SAO proposed constitutional amendments to mitigate threats to its independence; SAO proposed legislative acts regulating its activities, authority and rules of procedures to be of sufficiently higher legislative hierarchy. Despite various discussions, no tangible progress was achieved so far on the legislative measures to guarantee SAO’s independence. The State Audit Office has devised an annual rating system for public sector entities, which aims to perform institution-wide measurement and evaluation of the effectiveness of public sector management; however it is not clear if this system covers corruption related issues. The SAO has a monitoring system but does not monitor FMC and IA on their anti-corruption activities.

The monitoring meeting noted that there is progress on some parts of the recommendation, but called upon Georgia to focus on the key elements of recommendations, such as SAO independence, where no tangible progress is noted.
Measures taken to implement the recommendation
(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- **Implement the Financial Management and Control part of the PIFC law and assess the anti-corruption measures built in the existing Financial Management and Control.**

In order to support the process of implementation of the financial management and control system, the Central Harmonization Unit (CHU) with the assistance of OECD/SIGMA international experts is conducting gap-analysis of the situation in public sector. Gap-Analysis includes assessment of the internal control system, in particular gaps and challenges of FMC. The analysis is expected to be sent by the expert in near future.

Moreover, in November, 2014 the CHU started preparing the FMC Rules and Procedures.

In addition, **Prevention of Corruption in Public Finances (Priority N7.2) is one of the Strategic Priorities** of the new Strategy and Action Plan. In this regard, specific outcomes of the new Action Plan include:

- Result 7.2.1. Public internal financial control (PIFC) reform is gradually implemented;
- Result 7.2.2. Institutional capacity of the Central Harmonization Unit is strengthened; the Central Harmonization Unit functions effectively;
- Result 7.2.3. Functioning of internal audit system is improved;
- Result 7.2.4. State Audit Office is institutionally strengthened;
- Result 7.2.5. Assessment mechanism for financial management and control area as well as internal audit functioning system is implemented; Audit activity is planned based on the identified corruption risks;
- Result 7.2.6. Capacities of the Government are developed; Effectiveness of public financial management is increased and accountability is ensured;
- Result 7.2.7. Information Technology auditing (IT Audit) mechanism is developed;

- **Finalize the establishment of Internal Audit Units in all ministries of Georgia. Establish Internal Audit Units in the state-owned (controlled) companies and in the municipalities and ensure that the internal audit function is not mixed in practice with financial inspections (both institutionally and operationally).**

As noted during previous reporting period, by the end of 2014, Internal Audit Units were established in all 16 ministries, including the – Ministry of Justice, Ministry of Internal Affairs, Ministry of Defence and Ministry of Probation and Corrections. In addition, **all municipalities have created internal audit function and started coordination with CHU.** Moreover, basic **trainings were conducted for all internal auditors of municipalities** by the LEPL "Vano Khukhunaishvili Center for Effective Governance System and Territorial Arrangement Reform", which is responsible institution for supporting municipalities by developing programs, plans and delivering raisings to ensure effective performance.
In addition, the **CHU prepared the draft Policy paper** which will allow the Government to create IAUs within the high risk LEPLs. The CHU members developed several criteria for assessing the risks: e.g. budget execution, amount of own income, quantity of the employees. Noteworthy is that some LEPLs already have IAUs (e.g. Fund of Municipal Development, Public Service Hall, LEPL Levan Samkharauli National Forensics Bureau). The Draft Strategy Paper will be finalized once the gap analysis of the situation in public sector is prepared.

In addition, the CHU prepared amendments to the PIFC Law with a provision differentiating internal audit and inspection function. The amendments are discussed in the internal control council and are in a process to be sent to the Government for approval.

- **Establish additional provisions for ensuring independence of the Internal Audit Units. Consider introducing approval of appointment and dismissal of the head of Internal Audit Unit by an external body – e.g. by Central Harmonization Unit.**

Although, the PIFC Law provides for the independence of IAUs and states that the IAU directly reports to the Head of Institution, the prepared amendments to the PIFC Law include strengthening the CHU and raising its role in appointment and dismissal of the heads of IAUs. Mentioned amendments were prepared by the CHU in the first half of 2014 and sent to all internal audit units and SAO. Throughout the second half of 2014 the consultations with representatives of IAUs were held and relevant changes were made to proposed amendments. The final **amendments were discussed at the Internal Control Council** on 2nd March, 2015 and will are planned to be sent to the Government of Georgia for approval in near future.

- **Provide regular training for the staff of the Internal Audit Units with special attention paid to detecting and analysing signals of possible corruption.**

The **CHU in cooperation with GIZ regularly provides trainings for the staff of the Internal Audit Units** using local trained trainers or the international experts from EU countries. Training session includes basics of internal audit, advanced trainings as well as specific trainings related to prevention of fraud and corruption. **In 2014, several trainings related to prevention of corruption were conducted and a study visit to Germany was organized.** In terms of bilateral cooperation with Armenian Ministry of Finance, the GIZ organised regional conference including training course and study visit to Germany on a specific focus on the role of the internal audit in fighting corruption – theoretical basis and practical approaches. In 2015, additional regional conference is planned focusing prevention of fraud and corruption.

- **Consider establishing statistic and other indicators that allow assessment of the efficiency of the Internal Audit Units and their contribution to the prevention of corruption**

The heads of Internal Audit Units prepare annual reports and submit it to the CHU for the assessment of the reform development process. Based on the annual reports, strategic and annual plans, the CHU assesses performance of internal auditors and plans necessary measures aimed at increasing the capacity of internal auditors. It is planned to update the annual report template in the beginning of 2015 (as new Manual for Internal Auditing will be adopted) by strengthening the focus on corruption prevention framework.
• **Ensure the institutional and operational independence of the State Audit Office**

In November 2014 the *Article 35 of the Law of Georgia on the State Audit Office regulating the parliamentary supervision mechanism of SAO has been amended* and formulated as follows: “Financial Audit of the State Audit Office shall be performed annually in accordance with the international standards by the Commission established by the Parliament”. According to the same Article the scope of the financial audit shall be compliant with Article 2 (v.a)(v.g),(v.d) of the State Audit Law of SAO sub-paragraphs of which read as follow:

“Article 2:

... (v) Financial audit encompasses:

(v.a) Examination, evaluation and issuance of audit opinion on the report and financial statements of audited bodies;

(v.g) Examination of compliance of audited bodies’ activities and financial systems with laws and regulations;

(v.d) Examination of internal audit function and internal controls...”

Before afore-mentioned amendment was made, Article 35 of the Law Georgia on the State Audit Office stated that “the Commission established by the Parliament of Georgia was authorized to assess financial-economical, legal and organisational activities as well as evaluate audit control and internal control procedures of the State Audit Office”. Therefore, the new amendment significantly limited the mandate of the Parliamentary Commission to interfere in the activities of the SAO.

Apart from stated above, one of the goals of the newly adopted Anti-Corruption Strategy and Action Plan within the framework of the Priority 7.1 is to strengthen institutional capacity of the SAO (Result 7.2.4.); implement assessment mechanism for financial management and control area as well as internal audit functioning system (Result 7.2.5); develop capacities of the Government and ensure effectiveness of public financial management (Result 7.2.6.) as well as to develop Information Technology auditing (IT Audit) mechanism (Result 7.2.7) (See attachment – Unofficial translation of the Anti-Corruption Action Plan).

• **Establish in the State Audit Office a review system to monitor the functioning of the Financial Management and Control and Internal Audit with regard to combating corruption**

As indicated during previous reporting period, the State Audit Office has devised an annual rating system for public sector entities which aims to perform institution-wide measurement and evaluation of the effectiveness of public sector management, including but not limited to the areas of public financial control and internal audit. The primary objective of the assessment is to identify and report on the best practices observed in high-performing entities. In addition, annual rating system will pinpoint systemic deficiencies and specific areas in need of further improvement to enhance overall performance of the public sector performance at large, while maintaining a strong focus on public financial management, control and internal audit. The rating system relies on a set of 58 carefully developed questions divided into 6 categories.

*From September, 2014 the rating assessments have been performed for all budget-financed entities*. The results of the assessments are being analyzed to be reported to the Parliament on April 1, 2014 along with the SAO report on Budget Execution of the Government. Furthermore,
the rating assessments served as a primary tool for risk scoring for the purposes of 2015 annual audit planning.

**Assessment of Progress - 15th Plenary**

Prevention of Corruption in Public Finances (Priority N7.2) is one of the Strategic Priorities of the new Strategy and Action Plan. Establishment of IAUs in the ministries is now complete, apart from the Offices of the state ministers. The GoG has never made any commitment to the effect though (Establishment of IAUs in the Offices of the state ministers). All municipalities have established internal audit functions. Basic trainings were conducted for all internal auditors of municipalities. The CHU prepared the draft Policy paper which will allow the Government to create IAUs within the high risk LEPLs. In some LEPL’s IAU’s are established but not in SOE’s yet. The CHU prepared amendments to the PIFC Law to better regulate the independence of IA units, the position of the CHU and to differentiate internal audit and inspection function. The CHU in cooperation with GIZ regularly provides trainings for the staff of the Internal Audit Units, in 2014, several trainings related to prevention of corruption were conducted.

In November 2014 the Article 35 of the Law of Georgia on the State Audit Office regulating the parliamentary supervision mechanism of SAO has been amended and formulated as follows: “Financial Audit of the State Audit Office shall be performed annually in accordance with the international standards by the Commission established by the Parliament”. The new amendment limits the mandate of the Parliamentary Commission to interfere in the activities of the SAO, although it will depend on content of the standards to be approved by the Parliament.

The situation in the FMC area is largely the same as in October 2014. The SIGMA PIFC gap analysis showed that FMC in the public sector is underdeveloped. The implementation of the FMC part of the PIFC law of Georgia will take time (6-8 years) and will ideally have to be introduced in phases. In order to fulfil an EU budget support requirement the CHU has to draft FMC Rules and Procedures, which will have to be finalised before 1 April 2015. These Rules and Procedures concern roles and responsibilities regarding financial control of expenditures. The Rules and Procedures will be tested in four ministries in 2015. From 2016 on the CHU will work on the introduction of managerial controls on output. The final point of this recommendation (establishment of a review system at the SAO) is somewhat problematic. This review system is not related to anticorruption monitoring because IAUs are not designed to combat corruption. At the core of this review system is assessment of IAUs capacity to assess risks and introduce relevant controls.

**Progress** in the implementation of FMC is slow. IA and SAO show progress.

**Recommendation 9**

Minimize the procurement that is excluded from the e-procurement system and review the list of exemptions from the Public Procurement Law, in particular with regard to the utilities sector, relating to state secrets, publicly owned companies. Remove possibility for the President or the Government to qualify procurement as a simplified excluding it from the e-procurement, except for cases of natural disasters and other similar emergencies. Formally initiate negotiations on Georgia’s accession to the WTO Government Procurement Agreement.
Ensure that the current high level of transparency of procurement procedures is maintained and provide for publication of information, including on the awarded contracts, on the public procurement excluded from the PPL.

Review the complaint procedure to ensure independence of the review body from the Government and its capacity to effectively process complaints. Consider replacing provisions on automatic suspension of procurement in case of appeal with the possibility to issue interim injunctions by the dispute resolution body. Allow appeals against any procurement-related decisions.

Develop main rules on the debarment of entities from the public procurement in the law, introduce mandatory debarment for commission of a corruption-related offence by the company or its management and allow appeal against blacklisting of the entity.

13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation

- Minimize the procurement that is excluded from the e-procurement system and review the list of exemptions from the Public Procurement Law, in particular with regard to the utilities sector, relating to state secrets, publicly owned companies. Remove possibility for the President or the Government to qualify procurement as a simplified excluding it from the e-procurement, except for cases of natural disasters and other similar emergencies.

In respect to the concern raised in the Monitoring Report (at pg.66) as to the practice by the Government of Georgia to grant exemption from the general public procurement rule to SOEs, it should be mentioned that according to the recent practice/decisions of the Government of Georgia, the number of procuring entities, which were using special procedures, different from PPL regulation is decreasing.

It should be emphasized that the share of simplified procurements (direct contracts) is significantly reduced in 2013 compared to 2012 and represents 39 % of total value of state procurement budget.

With the aim to further develop Georgian Public Procurement regulatory framework in terms of transparency and accountability, upon the request of the Government of Georgia (Decree of 9 July, 2013 on the Necessary Measures for Implementation of Open Government Partnership Action Plan) Competition and State Procurement Agency (CSPA) prepared proposals for amending the Georgian Law on Public Procurement in order to minimize the exemptions from the Public Procurement Law. The proposals on legislative amendments were submitted to the government on 30 August, 2013.

Additionally, OECD - SIGMA is providing technical support to CSPA in the process of approximation of Georgian Public Procurement legislation to relevant EU regulations in the Framework of Deep and Comprehensive Free Trade Agreement (DCFTA) between EU and Georgia. The technical assistance encompasses providing support in elaboration of a Comprehensive Roadmap with time schedules and milestones which will include all reforms in terms of approximation to the EU regulations and institutional capacity building. Legislative
approximation covers among others the relevant EU directives and issues related to Dispute Resolution Board.

- **Formally initiate negotiations on Georgia’s accession to the WTO Government Procurement Agreement.**

The relevant Ministries of Georgia are currently considering the renewal of the application for the accession to the Government Procurement Agreement (WTO GPA) based on previous information and new findings introduced within the EBRD support program. The EBRD provides support to the Government of Georgia in Georgia’s accession to the WTO GPA, namely in analyzing of GPA accession requirements, experience sharing and elaboration of recommendations for submission to the Government for final decision.

Following activities were held in this regard:

- CSPA together with the Ministry of Economy and Sustainable Development and WTO Secretariat organized national seminar on the WTO GPA on March 13-14, 2012. The objectives of the seminar were: informing participants on the outcomes of GPA, the benefits and challenges associated with accession, providing advice and guidance in practical matters;

- Workshop on International Best Practices in Public Procurement and WTO GPA was conducted together with US Department of Commerce on September 13-14, 2012, in Tbilisi. About 60 representatives of procuring entities, suppliers and the CSPA itself attended the workshop;

- Workshop on WTO GPA accession procedures was held in London with the support of EBRD for Government officials on 25-28 March, 2013.

- **Ensure that the current high level of transparency of procurement procedures is maintained and provide for publication of information, including on the awarded contracts, on the public procurement excluded from the PPL.**

For sustainability and further development of Public Procurement System, the CSPA has elaborated CSPA long-term Development Strategy for 2013-2017. Transparency and availability of information was increased through introducing e-module for Contract Management Report (CMR) providing all state procurement related information including contracts, contracts awarded through simplified procurement and information on their fulfillment.

- **Review the complaint procedure to ensure independence of the review body from the Government and its capacity to effectively process complaints. Consider replacing provisions on automatic suspension of procurement in case of appeal with the possibility to issue interim injunctions by the dispute resolution body. Allow appeals against any procurement-related decisions.**

At this stage, no measures have been taken to implement this recommendation.

- **Develop main rules on the debarment of entities from the public procurement in the law, introduce mandatory debarment for commission of a corruption-related offence by the company or its management and allow appeal against blacklisting of the entity.**
At this stage, no measures have been taken to implement this recommendation.

**Assessment of Progress**

According to the progress report prepared by the government, the number of procuring entities which were using special procedures outside the PPL is decreasing in practice. But according to TI, procurements excluded from e-procurement system have not decreased and the government has the power to exclude any contract from the system. While the share of direct contracts has declined in 2013 and now constitutes 39% of the total procurement, its share is still very high. On the positive side, all procurement contracts, including those concluded outside the e-procurement system, are now published on the procurement website. Proposals on legislative amendments to limit exemptions from the PPL were submitted to the government in August 2013. The plenary meeting concluded that there is progress in this area.

### 14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

**Measures taken to implement this recommendation**

- Minimize the procurement that is excluded from the e-procurement system and review the list of exemptions from the Public Procurement Law, in particular with regard to the utilities sector, relating to state secrets, publicly owned companies. Remove possibility for the President or the Government to qualify procurement as a simplified excluding it from the e-procurement, except for cases of natural disasters and other similar emergencies.

Following the OECD recommendations the Government has initiated the amendments to the Law on State Procurement among others aimed at minimizing the exemptions from the Law and tendering process.

The proposed amendments to the State Procurement Law encompasses extension of the Law on procurements of public and private companies operating in utilities sector and daughter companies of state owned companies, which are currently excluded from the Law.

It should be mentioned, that the legislative proposals envisage the tightening up of the rules on simplified procurement allowing exemptions from the tendering process.

The proposed initiatives were disseminated among line-ministers and major procuring entities (180 procuring entities) for comments and remarks on July 21, 2014. The legislative proposals will be revised according to the feedbacks and submitted to the Government of Georgia for approval and the Parliament of Georgia for adoption subsequently.

- **Formally initiate negotiations on Georgia’s accession to the WTO Government Procurement Agreement.**

The Government of Georgia is considering the renewal of the application for the accession to the Government Procurement Agreement (hereafter, WTO GPA) based on previous information and new findings presented by the State Procurement Agency in the Economic Council Administration, which is an advisory council to the Prime-Minister of Georgia. Two presentations were delivered by the State Procurement Agency on GPA accession and number of relevant documents was submitted for in-depth analysis.
The Georgian public procurement legislation and institutional framework was reviewed in respect to the GPA requirements in the framework of EBRD support program. The results of the assessment suggest that “the overall development of the public procurement system in Georgia is impressive and if reform is continued may easily bring the Georgian PPL in full compliance with the international best practice and guarantee Georgia successful negotiation of the WTO GPA accession”.

- **Ensure that the current high level of transparency of procurement procedures is maintained and provide for publication of information, including on the awarded contracts, on the public procurement excluded from the PPL.**

In order to ensure greater transparency of public procurement respective modules e-PLAN and Contract Management Registry (CMR) are integrated into the Unified Electronic Government Procurement system (Ge-GP). E-PLAN allows for electronic submission and registration of state procurement annual plans. The annual state procurement plans are available for any interested person, who is registered in the system. Thus suppliers are informed prior on planned procurements and able to schedule their business activity accordingly.

In February, 2013 e-PLAN was modified, namely, announcement of tender through the system is restricted in case a procuring entity has no registered state procurement plan in e-PLAN module. Also, the tender notice restriction is extended to cases, when the plan does not provide the CPV code of objects the tender is announced for.

Procuring entities are obliged to upload the information on the contracts awarded through simplified procurement, any changes to contract, their fulfillment and actual payments, as well as relative documents in CMR module. Information that is uploaded in CMR is available for all registered users. In August, 2014 CMR module was upgraded and linked to e-PLAN module. As the result of no public contracts can be concluded and uploaded in CMR if respective procurement was not planned prior and properly reflected in e-PLAN. Introduction of such restriction serves as a sound monitoring tool for prevention of law infringements.

Results of this change are the following:

- No tenders are announced if they are not considered prior by the annual procurement plan or without modification of such plans;
- No public contracts are concluded without prior planning and proper amendment of e-PLAN;
- Monitoring of procurement procedures are more efficient
- System provides accurate and precise information to suppliers on intended procurement.

Furthermore, the State Procurement Agency intends the extension of the Ge-GP and integrating in it electronic module of design contest. Design contest is not fully automated. Current method does not provide such level of transparency and publicity as in case of tenders. Also the decision of design contest committee is not appealed to the Dispute Resolution Board (DRB).

Introduction of e-Contest will enable suppliers to take part in the design contest through Ge-GP as in case of tenders. Integration of e-Contest in the system will remove geographical factor and
simplify bidding in the contest – any interested person from any place is enabled to submit proposal electronically and bid in the design contest.

Moreover, by integrating e-Contest in the system enables contest committee decision to be appealed to the DRB that ensures quick and efficient defence of the suppliers’ rights.

- **Review the complaint procedure to ensure independence of the review body from the Government and its capacity to effectively process complaints. Consider replacing provisions on automatic suspension of procurement in case of appeal with the possibility to issue interim injunctions by the dispute resolution body. Allow appeals against any procurement-related decisions.**

Following the OECD Recommendations the SPA has elaborated the legislative amendments to the Law on State Procurement and the Order #11 on the Rules of Activity of the Procurement Related Disputes Resolution Board under the State Procurement Agency. According to the proposed amendments the qualification requirements to the members of Dispute Resolution Board (DRB), which represent the civil society in the board, will be introduced.

The proposed amendments introduce the timeframe for appealing the decision of tendering commission. The proposed amendments give the possibility to appeal the decision of tendering commission in DRB in case of cancellation of tender.

It should be outlined that existing remedies system is based on shared competences between DRB and the Court. All decisions of tendering commission can be appealed either in DRB or in the court. As well as the interested person can directly appeal the decision to the court.

It should be underlined that the filling of a complaint does not lead to automatic suspension of the procurement procedure. The reason is threefold: 1) the procurement procedure is suspended if the complaint is admissible in order to avoid the unlawful conclusion of contracts; 2) procurement procedures are suspended for only 10 days, as DRB provide quick review mechanism and there is no legal possibility for any delays. Interim measures can be effective in such jurisdictions, where the fast and smooth review procedure is not established and is time consuming and 3) the abolishment of suspensive effect of complaint may lead to conclusion of unlawful contracts and deprive the interested parties from the right to appeal in DRB. Finally, the experience of a number of EU Member States was also taken into account, e.g. in Germany, Slovenia, Poland and Romania complaints have a suspensive effect.

- **Develop main rules on the debarment of entities from the public procurement in the law, introduce mandatory debarment for commission of a corruption-related offence by the company or its management and allow appeal against blacklisting of the entity.**

To ensure further development of state procurement policy and its approximation to EU respective regulations, a number of legislative amendments focused on ensuring more transparency and equal treatment have been implemented.

For registering companies in the black list a review mechanism has been established, which gives the right on defense to the company against which the complaint is submitted.
After the submission of respective documents by procuring entity to the SPA, the SPA gives opportunity of explanation to all involved parties - procuring entity itself and relevant company. The SPA has discretion to register the company in the Black List depending on the circumstances such as competitiveness, proportionality of public and private interests and damages caused due to company’s infringement. The decision of SPA on registering a company in the Black List can be appealed in the court.

According to public procurement legislation (Order #9 of the Chairman of State Procurement Agency on Rules for Conducting Simplifies Procurement, Simplifies Electronic Tender and Electronic Tender) the supplier and/or bidder shall be debarred and registered in the Black List should detected in corrupt and fraudulent practices in order to gain the contract.

The State Procurement Agency is planning to develop an e-module for Black List and integrate it into the e-Procurement System.

Assessment of Progress

The Government has initiated the amendments to the Law on State Procurement among others aimed at minimizing the exemptions from the Law and tendering process. The amendments are still in works.

The Government is considering the renewal of the application for the accession to the Government Procurement Agreement (hereafter, WTO GPA), but no formal steps were made yet.

Transparency of public procurement are provided by e-PLAN and Contract Management Registry (CMR) that are integrated into the Unified Electronic Government Procurement system (Ge-GP). In August, 2014 CMR module was upgraded and linked to e-PLAN module. As the result no public contracts can be concluded and uploaded in CMR if respective procurement was not planned prior and properly reflected in e-PLAN.

Regarding the review Board, the SPA has elaborated the legislative amendments to the Law on State Procurement and the Order # 11 on the Rules of Activity of the Procurement Related Disputes Resolution Board under the State Procurement Agency. According to the proposed amendments the qualification requirements to the members of Dispute Resolution Board (DRB), which represent the civil society in the board, will be introduced. It could be agreed that these amendments partly address the recommendation, but only the part concerning “capacity”.

The government explained that the filling of a complaint does not lead to automatic suspension of the procurement procedure thus arguing against the recommendation, and not providing information on its implementation. Recommendation was “to consider”, so the Government has to demonstrate how consideration was given to this recommendation.

The SPA has discretion to register the company in the Black List. The decision of SPA on registering a company in the Black List can be appealed in the court. For registering companies in the black list a review mechanism has been established, which gives the right on defense to the company against which the complaint is submitted. The State Procurement Agency is planning to develop an e-module for Black List and integrate it into the e-Procurement System.
There is **progress** in relation to this recommendation.


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Minimize the procurement that is excluded from the e-procurement system and review the list of exemptions from the Public Procurement Law, in particular with regard to the utilities sector, relating to state secrets, publicly owned companies. Remove possibility for the President or the Government to qualify procurement as a simplified excluding it from the e-procurement, except for cases of natural disasters and other similar emergencies.

Minimizing the exemptions from the Law of State Procurement and tendering process as well as enhancing and expanding capacities of Electronic Government Procurement System are among **the commitments of the new Anti-Corruption Strategy and Action Plan (Priority 7.1.)** approved by the Anti-Corruption Council on 4 February 2015. (See attachment – Unofficial translation of the Action Plan).

- **Formally initiate negotiations on Georgia’s accession to the WTO Government**

As the update of the information provided in October, 2014, noteworthy is that under the framework of EBRD assistance project to the Government of Georgia in Georgia’s accession to the WTO GPA, EBRD has assessed the readiness of Georgia’s public procurement legislative and institutional framework for the accession to the WTO GPA. The assessment suggest that the “overall development of public procurement system in Georgia is impressive and in case of continuation of reform it may easily bring Georgian PPL in full compliance with the international best practice and guarantee Georgia’s successful negotiation regarding WTO GPA accession”. **The assessment was finalized and provided in August, 2014.**

- **Ensure that the current high level of transparency of procurement procedures is maintained and provide for publication of information, including on the awarded contracts, on the public procurement excluded from the PPL.**

Since the last progress report, the **Contract Management Report (CMR) module was upgraded and linked to e-PLAN module.** Currently, no public contracts can be concluded and uploaded in CMR if respective procurement was not planned prior and properly reflected in e-PLAN. Introduction of such restriction serves as a sound monitoring tool for prevention of law infringements. The results include the following:
  - No tenders are announced if they are not considered prior by the annual procurement plan or without modification of such plans;
  - No public contracts are concluded without prior planning and proper amendment of e-PLAN;
  - Monitoring of procurement procedures are more efficient;
  - System provides accurate and precise information to suppliers on intended procurement.
Furthermore, the State Procurement Agency (SPA) intends the extension of the e-Procurement system by integrating it electronic module of design contest (one of the commitments of the Action Plan – Result 7.1.1.3). The draft order introducing the new rule and procedures of design contest is already elaborated. For now the system operation details are under elaboration process. As a result, the program will be fully automated, which enables suppliers to take part in the design contest through e-Procurement system – any interested person from any place will be able to submit proposal electronically and bid in the design contest. Integration of e-Contest module in the system will remove geographical barrier and simplify bidding in the contest. Moreover, introduction of e-Contest enables contest committee decision to be appealed to the DRB that will ensure quick and efficient defence of the suppliers’ rights.

- Review the complaint procedure to ensure independence of the review body from the Government and its capacity to effectively process complaints. Consider replacing provisions on automatic suspension of procurement in case of appeal with the possibility to issue interim injunctions by the dispute resolution body. Allow appeals against any procurement-related decisions.

On 25 September, 2014 amendments were made in Dispute Resolution Board (DRB) procedures and entered into force since 1st October, 2014. Legislative amendments regarding the submission and acceptance of the complaint are in line with the relevant EU Directives and enable the decision of the contracting authority to be appealed within 15 days after issuance of such decision at the DRB. Prior the amendments the statutory time-limits were not stipulated by the relevant legislation.

The most significant amendments to the Order #11 of the Chairman of the Agency (Order #11 on the Rules of Activity of the Procurement Related Disputes Resolution Board under the State Procurement Agency) were adopted on 27 February, 2015, which enables all kind of decisions of tender committee’s to be appealed in DRB, including the cancelled tenders, and/or tenders, where no bids are received.

Noteworthy is that any interested person can notify the DRB regarding the fulfilment of DRB decisions and provide supportive information; on the other hand, DRB has a right to request any relevant documentation/information from the contracting authority. It should be emphasized that non-compliance with the decisions of DRB results in legal liability as defined by the legislation.

In accordance to the OECD recommendation, the qualification requirements for DRB members representing the civil society was introduced by the recent amendments. According to these amendments, the election of DRB members from the civil society shall be conducted independently without intervention of SPA; the Chairman of SPA is not entitled to reject any member elected by the civil society.

The amendments mentioned above will be enacted from 16 March, 2015.

Moreover, the SPA has elaborated the Guideline on Remedies Procedures which will guide the interested persons throughout the whole review process.
- Develop main rules on the debarment of entities from the public procurement in the law, introduce mandatory debarment for commission of a corruption-related offence by the company or its management and allow appeal against blacklisting of the entity.

According to Public Procurement legislation (Order #9 of the Chairman of State Procurement Agency on Rules for Conducting Simplifies Procurement, Simplifies Electronic Tender and Electronic Tender) the supplier and/or bidder shall be debarred and registered in the Black List when detected in corrupt and fraudulent practices in order to gain the contract.

The number of amendments regarding the debarment procedures were introduced in respective legislation, namely in the Order #9 of the Chairman of State Procurement Agency since 1st October, 2014. Last amendments were adopted on 23 January, 2015. The recent amendments are as follows:

- The contracting authority is obliged immediately notify the SPA on the ground of debarment of entity/supplier;
- Time-frame for the review of application against the supplier was introduced – SPA reviews the application regarding the blacklisting within 2 months upon submission of it;
- The bases for the rejection and refusal of the application were defined;
- The SPA is obliged to issue a grounded decision – the decision shall provide the grounds of such decision, including legal grounds and all circumstances that were taken into consideration.

The review procedures regarding the debarment were simplified by involving electronic workflow. The applicant (contracting authority) is not requested to provide supportive documentation in case all relevant information is uploaded in the e-Procurement system. The SPA gives possibility to all parties involved for explanation. On the other hand SPA is entitled to enlist a company in the Black List taking into account the circumstances such as competitiveness, proportionality of public and private interests and damages caused due to company’s infringement. The decision of State Procurement Agency on registering a company in the Black List can be appealed in the court.

**Assessment of Progress - 15th Plenary**

Minimizing the exemptions from the Law of State Procurement and tendering process as well as enhancing and expanding capacities of Electronic Government Procurement System are among the commitments of the new Anti-Corruption Strategy and Action Plan (Priority 7.1.)

On 25 September, 2014 amendments were made in Dispute Resolution Board (DRB) procedures and entered into force since 1st October, 2014. Legislative amendments are in line with the relevant EU Directives and enable the decision of the contracting authority to be appealed within 15 days.

The most significant amendments to the Order #11 of the Chairman of the Agency on the Rules of Activity of the Procurement Related Disputes Resolution Board under the State Procurement Agency were adopted on 27 February, 2015, which enables all kind of decisions of tender committee’s to be appealed in DRB, including the cancelled tenders, and/or tenders, where no bids are received.
The number of amendments regarding the debarment procedures were introduced in respective legislation, namely in the Order #9 of the Chairman of State Procurement Agency since 1st October, 2014. While these amendments allow appealing the debarment decision, it does not include a mandatory requirement to blacklist companies convicted for corruption.

There is some progress.

**Recommendation 10**

Carry out a comprehensive revision of the access to information legal provisions preferably by adopting a stand-alone Access to Information Law in line with international standards and best practice, including provisions on public interest test.

Ratify the Council of Europe Convention on Access to Official Documents.

Set up an independent public authority for the oversight of access to information right enforcement (as a separate institution or an office merged with the data protection authority) and assign it with adequate powers, in particular to issue binding decisions.

Implement provisions on proactive publication of information and ensure functioning and effective public access to a centralised system for publication of court decisions.

Carry out systematic training of information officers, including on the local level, and of other public officials dealing with access to information issues, including judges.

**13th ACN Istanbul Action Plan Meeting on 16-18 April 2014**

**Measures taken to implement this recommendation**

- Carry out a comprehensive revision of the access to information legal provisions preferably by adopting a stand-alone Access to Information Law in line with international standards and best practice, including provisions on public interest test.

A comprehensive revision of access to information legal provisions and elaboration of Freedom of Information Act (FOI Act) was initiated in 2014. The process is being carried out in the framework of the ACC, led by the Ministry of Justice with the support of Open Society Foundation Georgia (OSGF). The process was agreed at the round table - "Regulations of freedom of information legislation, challenges and future plans" on February 13, 2014, where the Ministry of Justice presented the Work Plan on the development of the FOI Act. Three thematic Working Groups were established under ACC - Group I: definition of public information, proactive disclosure and access to information; Group II: restrictions and limitations; and Group III: public information disputes and oversight agency. International standards and best practices, as well as relevant international recommendations and surveys will be taken into consideration by the WGs while drafting relevant parts of the Freedom of Information Act.

First meetings of the WGs were held on March 20-21, 2014 where the problematic issues according to the subjects and thematic areas defined for the WGs were identified and recommendations were given to the Ministry of Justice and OSGF responsible for drafting process. Meetings of the Working Groups are planned to be held at least once in a month. At the same time drafting group (Ministry of justice and OSGF experts) have intensive meetings to draft the new law. The Draft Law is planned to be finalized by the end of 2014.
• *Ratify the Council of Europe Convention on Access to Official Documents.*

At this stage, no measures have been taken to implement this recommendation.

• *Set up an independent public authority for the oversight of access to information right enforcement (as a separate institution or an office merged with the data protection authority) and assign it with adequate powers, in particular to issue binding decisions.*

The Issue of establishing independent public authority for the oversight of access to information right enforcement was thoroughly discussed and the legal form of such body will be agreed in the development process of the FOI Act, in particular within the thematic WG (*Group III: public information disputes and oversight agency*). The first meeting of this WG took place on March 21, 2014. The OSGF expert made a presentation on establishing independent organ with authority of overseeing access to information in public entities. The discussions were held to determine whether oversight body shall be under the umbrella of Public Defender’s Office, or Data Protection Commissioner, or establish an independent public authority. Members of the WG agreed to discuss advantages and disadvantages of all these proposed initiatives on the basis of the detailed research of the expert, which will be presented on the future meetings. Furthermore, expert will present research on good practice of other states accumulating such oversight bodies under the umbrella of data protection inspector office.

• *Implement provisions on proactive publication of information and ensure functioning and effective public access to a centralised system for publication of court decisions.*

The legislative obligation of proactive publication and electronic request of public information entered into force on 1st September, 2013. In addition, the Draft Decree of the Government on the Proactive Publication of Public Information and Electronic Request prepared by the Ministry of Justice was adopted by the Government on August 26, 2013. The list of information subject to proactive publication is included in the Annex of the Decree.

As long as the Decree of Government N219 is mandatory only for agencies under the Government of Georgia, a number of other state agencies adopted specific orders/decrees regulating the issues of proactive publications and related procedures.

In addition to the legislative changes that were implemented in relation to freedom of information, in September 2013 the Data Exchange Agency (DEA) integrated the electronic communication service into the Citizens’ Portal - [www.my.gov.ge](http://www.my.gov.ge). This service allows citizens to interact with the Government electronically. It allows individuals to submit a request of public information to 60 public organizations (by using their e-documentation management systems), track the request sent and receive replies electronically.

• *Carry out systematic training of information officers, including on the local level, and of other public officials dealing with access to information issues, including judges.*

In 2014, the FOI Officers’ Working Group aimed at developing and establishing unified practice among the public agencies in relation to freedom of information was established with the initiative of the Ministry of Justice. The WG consists of the FOI Officers from various Ministries
and State Chancellery. The first meeting of the WG took place on 7\textsuperscript{th} March, 2014. According to the decision of the WG members the meetings will be held on a monthly basis. The second meeting of the WG was held on 28\textsuperscript{th} March, 2014.

**Assessment of Progress**

Review of FOI act was initiated in 2014, with the participation of the civil society. The first meetings of the relevant working groups were held in March 2014, including the group on the oversight authority regarding public information rights; however no further measures were taken yet substantively implement the recommendation. Decree on proactive publication of information was adopted by the government and entered into force in September 2013. According to TI, this decree does not apply to the local government bodies. TI further noted that there is still no centralised system for the publication of court decisions in Georgia. The plenary meeting agreed that there is progress regarding this recommendation.

**14\textsuperscript{th} ACN Istanbul Action Plan Meeting on 8-10 October 2014**

**Measures taken to implement this recommendation**

- **Carry out a comprehensive revision of the access to information legal provisions preferably by adopting a stand-alone Access to Information Law in line with international standards and best practice, including provisions on public interest test.**

The drafting process of a stand-alone Freedom of Information Law led by the Ministry of Justice with the support of Open Society Georgia Foundation (OSFG) continued throughout reporting period. In June, 2014 a high level roundtable discussion was held aimed at facilitating the FOI reform in Georgia in cooperation with OGP Access to Information WG. International standards and best practices were reviewed by Prof. Kevin Dunion – Director of the Center for Freedom of Information and a former Freedom of Information Commissioner of Scotland. During the roundtable the representatives of the Ministry of Justice and the experts of Open Society Georgia Foundation proposed solutions elaborated in the process of freedom of information legislation reform in Georgia.

Moreover, to facilitate the process of consultation on the draft law, the bilateral meetings of Kevin Dunion with the representatives of Public Defender Office, Personal Data Protection Office, Ministry of Internal Affairs, Ministry of Justice and Chancellery of the Government were organized. On 25 July, opinion “Overview of key Aspects of the Draft Law of Georgia on Freedom of Information” was submitted to the Ministry of Justice by Kevin Dunion. The document was thoroughly discussed by the WG.

In August, 2014, in the framework of FOI legislation reform a study visit of a delegation from Georgia to Federal Institute for Access to Information and Data Protection (IFAI) of Mexico was organized. The Georgian delegation was headed by the first Deputy Minister of Justice. The visit was dedicated to exchanging the experience on transparency regime in Mexico, organizational structure of a constitutionally autonomous body – IFAI, electronic tools for
advancing the right of access to information, mechanisms for monitoring, records management in public agencies and other related issues in the field of access to information.

Next steps include the agreement on the draft within the Ministry, presentation and opening the public discussions on the draft.

- **Ratify the Council of Europe Convention on Access to Official Documents.**

No measures have been taken to implement this recommendation.

- **Set up an independent public authority for the oversight of access to information right enforcement (as a separate institution or an office merged with the data protection authority) and assign it with adequate powers, in particular to issue binding decisions.**

The issue of establishing independent public authority for the oversight of access to information is being discussed as a part of the work on the legislative reform of FOI. There is a dedicated thematic WG for this issue (*Group III: public information disputes and oversight agency*). The first meeting of this WG took place on March 21, 2014. The OSGF expert made a presentation on establishing independent organ with authority of overseeing access to information in public entities. The discussions were held to determine whether oversight body shall be under the umbrella of Public Defender’s Office, or Data Protection Commissioner, or whether the dedicated body has to be established.

Prof. Dunion’s visit was mainly focused on the supervising authority and various policy options to be considered. Moreover, at the study visit of Georgian Delegation to the Federal institute for Access to Information and Data Protection of Mexico (IFAI), among other things, IFAI shared their experience of functioning as an independent body and presented ongoing reforms.

At this stage of developing the law the preferred option for Georgian context recommended by international experts is a separate body. The consultations are still to be held on this issue.

- **Implement provisions on proactive publication of information and ensure functioning and effective public access to a centralised system for publication of court decisions.**

The legal obligation of proactive publication and electronic request of public information entered into force on 1 September, 2013.

With this aim the Decree of the Government on the Proactive Publication of Public Information and Electronic Request was adopted by the Government of Georgia (*see information from previous reporting period*). As long as the Decree of Government N219 is mandatory only for agencies under the Government of Georgia, a number of other state agencies adopted specific orders/decrees regulating the issues of proactive publications and related procedures. From March, 2014 the following public agencies have determined the standard and the list of information to be published proactively:

- Dmanisi Municipality Council;
- Zugdidi Municipality Council;
- Kutaisi Municipality Council;
- Shuakhevi Municipality Council;
- Ozurgeti Municipality Council;
- Telavi Municipality Council;
- Signaghi Municipality Council;
- Gurjaani Municipality Council.

- Carry out systematic training of information officers, including on the local level, and of other public officials dealing with access to information issues, including judges.

Trainings on the issues of freedom of information and proactive disclosure were held during May-July, 2014 with the facilitation of IDFI in the following public institutions: Special State Protection Service of Georgia, National Intellectual Property Center Sakpatenti, National Security Council of Georgia, and Ministry of Defense of Georgia. Furthermore, trainings are scheduled in the Ministry of Internal Affairs of Georgia and in its agencies for September 18-19, 2014.

Moreover, the meeting of the FOI Officers’ Working Group took place on 28 May, 2014 where the issues of proactive disclosure and e-request were discussed. In addition, on 25-27 July, 2014 a three days training session on “Freedom of Information and Personal Data protection” was organized for the FOI Officers of the MOJ and its Legal Entities of Public Law by the Training Center of the MOJ with the assistance GIZ.

Assessment of Progress

Review of the access to information legislation is ongoing. The inclusive and participatory drafting process of a stand-alone Freedom of Information Law is ongoing, particularly: High level roundtable aimed at facilitating the FOI reform in Georgia was held in June; Dedicated thematic WG meetings held, among them on the issue of establishing independent public authority for the oversight of access to information; Opinion “Overview of key Aspects of the Draft Law of Georgia on Freedom of Information” was submitted to the MOJ on 25 July and analysed; Study visit to Federal Institute for Access to Information and Data Protection (IFAI) of Mexico in August. However, there are no tangible results yet. No progress was reported regarding the recommendation to ratify the Council of Europe Convention on Access to Official Documents. Consultations regarding an independent public authority for the oversight of access to information right enforcement are ongoing, there are no tangible results yet.

Regarding proactive publication of information, the legal obligation of proactive publication and electronic request of public information entered into force on 1 September, 2013; the Decree of the Government on the Proactive Publication of Public Information and Electronic Request was adopted by the Government of Georgia, but it is mandatory only for agencies under the Government of Georgia. A number of other state agencies adopted specific orders/decrees regulating the issues of proactive publications and related procedures. From March, 2014 8 municipal councils have determined the standard and the list of information to be published proactively.

Trainings on the issues of freedom of information and proactive disclosure were held during May-July, 2014 for Special State Protection Service of Georgia, National Intellectual Property Center Sakpatenti, National Security Council of Georgia, and Ministry of Defense of Georgia. Trainings are scheduled in the Ministry of Internal Affairs. Moreover, the meeting of the FOI
Officers’ Working Group took place on 28 May, 2014 where the issues of proactive disclosure and e-request were discussed. In addition, on 25-27 July, 2014 a three days training session on “Freedom of Information and Personal Data protection” was organized for the FOI Officers of the MOJ and its Legal Entities of Public Law by the Training Center of the MOJ with the assistance GIZ. No trainings were provided for the FOI officials on the local level, or with for judges.

The monitoring meeting agreed that there is progress.


**Measures taken to implement the recommendation**

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- **Carry out a comprehensive revision of the access to information legal provisions preferably by adopting a stand-alone Access to Information Law in line with international standards and best practice, including provisions on public interest test.**

The first draft of a stand-alone Freedom of Information Law drafting process of which led by the Ministry of Justice with the support of Open Society Georgia Foundation (OSGF) was finalized in August, 2014. In addition, the Ministry of Justice received further comments on the first draft from different experts including international expert Mr. Kevin Dunion. Next steps include agreement on the draft-law within the MOJ and opening wide-range consultations to further discuss the draft. According to the agreed timeline (Anti-Corruption Action Plan (2015-2016) and OGP Action Plan (2014-2015)) the draft law shall be submitted to the Parliament by the end of 2015.

In addition, Openness, Access to Public Information and Civic Engagement to Fight against Corruption have been identified by the ACC as one of the Strategic Priorities of the Fight against Corruption of 2014-2016 (Priority N3).

Specific activities of the new Action Plan include: revision of access to information legal provisions and elaborating an enforcement mechanism (taking into consideration the OECD-ACN third round monitoring recommendations (10(1)); elaboration of an unified standard for e-request and proactive publication of public information and assist its implementation and increasing qualification of FOI officers as well as developing a coordination mechanism (See the attachment: Anti-Corruption Action Plan (2015-2016)).

- **Ratify the Council of Europe Convention on Access to Official Documents.**

In 2015, the Ministry of Foreign Affairs initiated consultations regarding the ratification of Council of Europe Convention on Access to Official Documents. Particularly, in February 2015 a letter inquiring official positions in relation to steps to be taken with the aim to ratify Convention was sent of all ministries.

Based on the letter the Ministry of Justice of Georgia has prepared the analysis of the existing legislation and assess its compliance with the provisions of the Convention. After responses from other state agencies are submitted to the Ministry of Foreign Affairs, the latter will notify...
the Government of Georgia on the concrete measures to be taken with the aim of ratification of the Convention.

- **Set up an independent public authority for the oversight of access to information right enforcement (as a separate institution or an office merged with the data protection authority) and assign it with adequate powers, in particular to issue binding decisions.**

The issue of establishing independent public authority for the oversight of access to information is being discussed as a part of the working process on the legislative reform of FOI within the dedicated thematic WG for this issue (Group III: public information disputes and oversight agency). At this stage the first draft law foresees provisions on a separate independent body; however, the consultations are still to be held on this issue and will be agreed by relevant stakeholders.

- **Implement provisions on proactive publication of information and ensure functioning and effective public access to a centralised system for publication of court decisions.**

From September, 2014 the following public agencies have adopted the **standard and list of information to be published proactively:**

- State Audit Office (13 February, 2015 – Decree N18/37);
- Borjomi Municipality Council (16 January, 2015 – Decree N3);
- Tbilisi City Municipality Council (Sakrebulo) (30 December, 2014 – Decree N20-109);
- Chiatura Municipality Council (29 December, 2014 – Decree N47);
- Akhaltsikhe Municipality Council (11 December, 2014 – Decree N53);
- Tskhaltubo Municipality Council (28 November, 2014 – Decree N83);
- Photi City Municipality Council (Sakrebulo) (26 November, 2014 – Decree N16/51);
- Competition State Agency (20 November, 2014 – Decree N15);
- Kvareli Municipality Council (17 October, 2014 – Decree N40);
- Khashuri Municipality Council (30 September, 2014 – Decree N60);
- Tsalenjikhi Municipality Council (30 September, 2014 – Decree N44);
- Baghdad Municipality Council (26 September, 2014 - Decree N128);
- Khoni Municipality Council (15 September, 2014 – Decree N40).

- **Carry out systematic training of information officers, including on the local level, and of other public officials dealing with access to information issues, including judges.**

During the reporting period, the meeting of the FOI Officers’ Working Group organized by the Ministry of Justice of Georgia took place in November 2014, where the issues of proactive disclosure and e-request were discussed.

**Assessment of Progress - 15th Plenary**

Openness, Access to Public Information and Civic Engagement to Fight against Corruption have been identified as by the ACC as one of the Strategic Priorities of the Fight against Corruption of 2014-2016.
The first draft of a stand-alone Freedom of Information Law was finalized by the Working Group in August, 2014. The draft will be finalized by the Ministry of Justice in cooperation with relevant stakeholders and afterwards it will be submitted to the Parliament by the end of 2015. The first draft provides for a separate independent body; however, the consultations are still to be held on this issue and will be agreed by relevant stakeholders.

In 2015, the Ministry of Foreign Affairs initiated consultations regarding the ratification of Council of Europe Convention on Access to Official Documents. The meeting welcomed the consultation process, but noted lack of results.

Progress was noted with the proactive publication of information, 11 municipalizes and 2 state bodies have adopted their own standard and list of information to be published proactively.

In November 2012, the Ministry of Justice organized a meeting of the FOI Officers’ Working Group to promote proactive disclosure and e-request.

**Recommendation 11**

Complete reform of the legislation on party finances by providing a consistent legal framework, eliminating discrepancies among various laws and providing clear procedures for supervision, in particular with regard to sanctioning, in line with international recommendations and following an open and inclusive process.

Ensure publication of all financial reports submitted by electoral subjects in relation to their electoral funds and results of their verification by the State Audit Office.

Provide for mandatory publication of independent auditors’ reports on political parties finances.

Ensure uniform and impartial enforcement of rules on monitoring and supervision of political parties finances during and outside of elections, in particular application of effective and proportionate sanctions.

**13th ACN Istanbul Action Plan Meeting on 16-18 April 2014**

*Measures taken to implement this recommendation*

- **Complete reform of the legislation on party finances by providing a consistent legal framework, eliminating discrepancies among various laws and providing clear procedures for supervision, in particular with regard to sanctioning, in line with international recommendations and following an open and inclusive process.**

- **With the initiative of the SAO, the Political Parties Financial Monitoring Unit drafted a Decree on establishing a Permanent Board including representatives of non-governmental organizations which will be responsible for drafting recommendations regarding legislative amendments on political party funding. Draft Decree foresees involvement of the mentioned Board involved in the political party monitoring process. Ensure publication of all financial reports submitted by**
electoral subjects in relation to their electoral funds and results of their verification by the State Audit Office.

Since 2013, after the elections, the SAO is publishing all financial information and declarations and independent auditors’ reports on the official webpage – www.sao.ge and will continue its efforts to achieve full transparency of political finances.

- Provide for mandatory publication of independent auditors’ reports on political parties finances.

According to the amendments introduced in July, 2013 to the Law on Political Unions of Citizens states independent auditors’ reports shall be submitted to the SAO together with financial declarations of political parties. Both, report and declaration are respectively, published by the SAO on www.sao.ge.¹³

- Ensure uniform and impartial enforcement of rules on monitoring and supervision of political parties finances during and outside of elections, in particular application of effective and proportionate sanctions.

At this stage, no measures have been taken to implement this recommendation.

### Assessment of Progress

The Political Parties Financial Monitoring Unit of the SAO drafted a Decree on establishing a Permanent Board, which includes NGOs, for drafting recommendations regarding legislative amendments on political party funding. Draft Decree foresees involvement of the Board in the political party monitoring process. According to the amendments introduced in July, 2013 to the Law on Political Unions of Citizens states independent auditors’ reports shall be submitted to the SAO together with financial declarations of political parties. Since 2013, these reports were effectively published. The meeting agreed that there is progress in this area.

### 14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

**Measures taken to implement this recommendation**

- Complete reform of the legislation on party finances by providing a consistent legal framework, eliminating discrepancies among various laws and providing clear procedures for supervision, in particular with regard to sanctioning, in line with international recommendations and following an open and inclusive process.

With the initiative of the SAO, in April, 2014 a Board including representatives of 9 non-governmental organizations was formed. The board was tasked with observing the political finances monitoring process, providing recommendations and cooperating with the SAO through the information exchange and consultation process. During the reporting period the Board elaborated various legal documents, among them draft amendments to the Law on Political Unions of Citizens that at this stage need further consultations; seven Decrees of

¹³ The declarations and reports of auditors are available on the following web-page (in Georgian) - http://sao.ge/financial-monitoring-service/declaration/annual-declarations-of-political-subjects
Auditor General that are already signed and amendments to the Political Financing Monitoring Methodology that will be in force from 1 October, 2014.

Moreover, in order to prepare relevant amendments to the political party funding legislation and implement the recommendations of GRECO and OECD, an ad hoc Working Group was established by the ACC on its Session 14 April, 2014. The WG consists of representatives from relevant public agencies (Central Election Commission, State Audit Office, Ministry of Justice) as well as non-governmental organizations (International Society for Fair Elections and Democracy, Institute for Development of Freedom of Information, etc.),

The WG held a meeting to divide tasks and had an exchange of emails with the proposals. Final proposals of the WG in relation to legislative amendments will be submitted to the ACC subsequently.

- **Ensure publication of all financial reports submitted by electoral subjects in relation to their electoral funds and results of their verification by the State Audit Office.**

Since 2013 Presidential Elections, the SAO is publishing all financial information and declarations and independent auditors’ reports on the official webpage – [www.sao.ge](http://www.sao.ge) and since 2014 Local Elections the SAO started publishing financial reports and other information in machine-readable format. For 2014 elections the SAO also published report with statistical information about income/expenses and fines applied by the Office.

- **Provide for mandatory publication of independent auditors’ reports on political parties finances.**

See information from previous reporting period.

- **Ensure uniform and impartial enforcement of rules on monitoring and supervision of political parties finances during and outside of elections, in particular application of effective and proportionate sanctions.**

According to the amendments introduced in July, 2013 to the Law on Political Unions of Citizens amount of fines were reduced from 5 000 GEL to 2 000 GEL for violations of requirements of the law, that made the sanctions more proportionate and adequate. The statistics of last elections show that use of sanctions and amounts of fines were uniform and balanced in accordance with the amended legislation. Sanctions were imposed to almost all major political entities; whereas fines were adequate and in the most cases were not appealed.

**Assessment of Progress**

The Board for observing the political finances monitoring process, providing recommendations to the SAO was established and became operational; it prepared various legal documents, including draft amendments to the Law on Political Unions of Citizens that at need further consultations, seven Decrees of Auditor General that are already signed and amendments to the Political Financing Monitoring Methodology that will be in force from 1 October, 2014. An ad hoc Working Group was established by the ACC on its Session 14 April, 2014 to address this theme.
Since 2013 Presidential Elections, the SAO is publishing all financial information and declarations and independent auditors’ reports on the official webpage – www.sao.ge and since 2014 Local Elections the SAO started publishing financial reports and other information in machine-readable format.

The statistics of last elections show that use of sanctions and amounts of fines were uniform and balanced in accordance with the amended legislation. Sanctions were imposed to almost all major political entities; whereas fines were adequate and in the most cases were not appealed.

**Progress.**


**Measures taken to implement the recommendation**

*(Brief summary of measures taken to implement recommendation provided by the National Coordinator)*

**Measures taken to implement this recommendation**

- **Complete reform of the legislation on party finances by providing a consistent legal framework, eliminating discrepancies among various laws and providing clear procedures for supervision, in particular with regard to sanctioning, in line with international recommendations and following an open and inclusive process.**

Information on monitoring of electoral campaign funds of electoral subjects during local government elections 2014 was provided during the previous reporting period.

Apart from this, noteworthy is that among activities/results set by the Priority 11 of the newly adopted Anti-Corruption Strategy and Action Plan (2014-2015) - **Prevention of Political Corruption (Priority 11)** include harmonization of the Election Code of Georgia and Organic Law of Georgia on Political Unions of Citizens accordance with the OECD-ACN Third Round Monitoring Report recommendation 11(1) and GRECO Third Round Compliance Report recommendations i, iii, iv, viii, ix and x; taking measures to prevent abuse of all kind of administrative resources during the election campaign; simplification of accountability process of political parties/electoral subjects, increasing level of transparency and defining dates of publication of information, etc. (See attachment – Unofficial translation of the Action Plan).

- **Ensure publication of all financial reports submitted by electoral subjects in relation to their electoral funds and results of their verification by the State Audit Office.**

At this stage, there was no need to take steps with the aim to implement this recommendation (see information related to election process from previous reporting period). **In March, 2015 the SAO will publish its verification report of the annual financial reports of all political Parties.**

- **Provide for mandatory publication of independent auditors’ reports on political parties finances.**

At this stage, there was no need of new measures to implement this recommendation. **Financial declarations and independent auditors’ reports are already published on State Audit Offices webpage.**
• **Ensure uniform and impartial enforcement of rules on monitoring and supervision of political parties finances during and outside of elections, in particular application of effective and proportionate sanctions.**

According to the amendments introduced in July, 2013 to the Law on Political Unions of Citizens the sanctions became more proportionate and adequate. The statistics of last elections in 2014 clearly demonstrated that use of sanctions and amounts of fines were uniform, proportionate and balanced.

**Assessment of Progress - 15th Plenary**

No major developments took place since the previous progress update. The inclusion of the further legal reform in the area of party financing in the new Anti-Corruption Action Plan, in particular in view of complying with the OECD/ACN recommendation, is welcome. However, this so far is just a plan, it’s too early to assess implementation of this measure. One should keep in mind though the progress achieved under this recommendation during previous reporting periods. **Lack of further progress.**

**Recommendation 12**

| Ensure independence of the judiciary, in particular by considering extending life tenure to the current judges and judges of the Supreme Court, ensuring that res judicata principle is respected, reviewing grounds for dismissal of judges. |

| Introduce promotion of judges based on competitive procedure with open announcement of vacancies and based on clear criteria for promotion. |

**13th ACN Istanbul Action Plan Meeting on 16 - 18 April 2014**

**Measures taken to implement this recommendation**

• **Ensure independence of the judiciary, in particular by considering extending life tenure to the current judges and judges of the Supreme Court, ensuring that res judicata principle is respected, reviewing grounds for dismissal of judges.**

To support the reform of Judiciary, on February 28 - March 1, 2014 high level Conference on “Lifetime Appointment, Probation Period, Monitoring and Appraisal of Judges” was held with the participation of legislative, executive, and judicial authorities, high level representatives of international and international missions in Georgia, as well as Georgian and foreign non-governmental organizations. Furthermore, the Judges from Germany, Great Britain, Austria, Poland and United States were invited to share their experience and expertise.

Discussion and debates have been held on the lifetime appointment of judges on number of meetings devoted the reform of the judiciary organized by the Ministry of Justice in 2013-2014.

Under the Organic Law on Common Courts of Georgia, the judges of the district and appeal courts shall be appointed for 3 years. After expiration of the term of 3 years the High Council of Justice will make a decision on the appointment of a judge for life based on specific criteria. Elaboration of these criteria shall be ensured by the Parliament of Georgia by May 1, 2014 (the respective amendments to the Organic Law on Common Courts of Georgia entered into force in
November, 2013 provide for this requirement). To this end the amendments are currently being drafted laying down clear and objective criteria for the monitoring of the judges as well as fair and transparent procedure for the appraisal for the purposes of lifetime appointment. As to the judges of the Supreme Court, according to the Organic Law on Common Courts of Georgia, they are to be appointed for 10-year tenure by the Parliament of Georgia. There are no changes envisaged in this regard.

- **Introduce promotion of judges based on competitive procedure with open announcement of vacancies and based on clear criteria for promotion.**

The further reform of the judiciary inter alia envisages the elaboration of criteria for promotion of judges in order to ensure full compliance with international and European standards regarding the independence of Judiciary.

**Assessment of Progress**

Consideration was given to the extending life tenure to judges, but it was decided not to provide life tenure to the current judges at this stage of reforms. Thus technically this recommendation was addressed by Georgia, even though the outcome was contrary to the recommendation. According to TI, no changes were made to the rules regarding dismissal of judges. However, vacancies are announced openly and criteria for promotion were adopted, through it is not clear yet how they will apply in practice. The Georgian delegation informed the meeting that the work of the Commission on Miscarriages of Justice was postponed and de facto suspended, which was welcomed by the participants. The meeting agreed that there is progress in this very important area of reforms in Georgia, albeit very limited.

**14th ACN Istanbul Action Plan Meeting on 8-10 October 2014**

**Measures taken to implement this recommendation**

- **Ensure independence of the judiciary, in particular by considering extending life tenure to the current judges and judges of the Supreme Court, ensuring that res judicata principle is respected, reviewing grounds for dismissal of judges.**

Under the Organic Law on Common Courts of Georgia, the judges of the district and appeal courts shall be appointed for 3 years. After expiration of the term of 3 years the High Council of Justice will make a decision on the appointment of a judge for life based on specific criteria. To this end the Ministry of Justice prepared the draft law on monitoring and evaluation criteria of judges. All the relevant stakeholders were involved in preparing the draft law and their recommendations were taken into account. The draft law was passed by the Parliament and entered into force in August, 2014.

The law consists of the following main principles:

- The evaluation shall be carried out based on two basic criteria – good faith and competence. During the three year probation period the judge is evaluated every year throughout a month by one judge and one non-judge member of the High Council of Justice.
All three assessments each of them containing two parallel assessments of the relevant period shall be undertaken by different members of the Council.

- During the evaluation period the evaluators carry out all the necessary measures to obtain the needed information for assessing the judge according to the criteria. They study five judgments on the cases that were heard by the judge, attend the trials, meet with the judge in person and obtain other information according to the rules prescribed by law.

- The competence of the judge is measured by scores. As for the good faith, in this criterion the result of the evaluation is whether the judge meets/fully meets with the requirements or does not satisfy them. The results are filled in the forms and submitted to the High Council of Justice.

- After interviewing the judge and considering the results of the evaluation, the High Council of Justice makes a grounded decision on the life-time appointment of the judge by two thirds majority of votes.

- The judge has the right to appeal the decision on the refusal in a special board that will be set up within the system of the Supreme Court of Georgia. In the latter case the judge will have to prove that there was a violation of the procedure that affected on the decision of the High Council of Justice.

- If the Board finds the violation of the procedure, the decision on the refusal is annulled and the High Council of Justice has an obligation to consider the issue again taking into consideration the findings of the Board.

- As to the judges of the Supreme Court, according to the Organic Law on Common Courts of Georgia, they are to be appointed for 10-year tenure by the Parliament of Georgia. There are no changes envisaged in this regard.

1. Introduce promotion of judges based on competitive procedure with open announcement of vacancies and based on clear criteria for promotion.

The further reform of the judiciary inter alia envisages the elaboration of criteria for promotion of judges in order to ensure full compliance with international and European standards regarding the independence of Judiciary.

**Assessment of Progress**

The Law on monitoring and evaluation criteria of judges was passed by the Parliament and entered into force in August, 2014. According to this law, after expiration of the term of 3 years of initial employment of current judges, the High Council of Justice will make a decision on the appointment of a judge for life based on specific criteria, including good faith and competence. This change could help sustain independence of the judiciary by setting criteria for life appointment after probationary period. The second part of the recommendation was technically implemented during the previous progress update, however the outcome of the consideration was contrary to the recommendation and no changes were made in relation to the judges of the Supreme Court. Georgian delegation also noted that such changes require constitutional amendments. Reform package was sent to the Venice commission, their conclusions are now in
discussio

The monitoring team agreed that while many actions were taken in relation to the recommendation, no further progress was made to satisfy the recommendation to ensure the independence of the judiciary. As noted in the previous reporting period, the establishment of the Commission on Miscarriages of Judges was not pursued as it was recommended. Other parts were not implemented yet, but there are specific draft laws on this. The monitoring meeting decided that there was no progress in the current reporting period. This assessment was strongly challenged by the delegation of Georgia. The authorities believe that there is substantial progress in Georgia in increasing the independence of judiciary. The authorities point to the fact that series of amendments were introduced in the legislation aimed at increasing independence of the Judiciary in line with Venice Commission opinions. In addition, the reform package related among other issues to the promotion of judges is being finalized based on the recently issued opinion and will be presented to the Parliament this year. This matter will be re-examined at the next meeting.


Measures taken to implement the recommendation

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Ensure independence of the judiciary, in particular by considering extending life tenure to the current judges and judges of the Supreme Court, ensuring that res judicata principle is respected, reviewing grounds for dismissal of judges.

Under the Organic Law on Common Courts of Georgia, the judges of the district and appeal courts shall be appointed for 3 years. After expiration of the term of 3 years the High Council of Justice will make a decision on the appointment of a judge for life tenure based on specific criteria.

Within the third stage of the judiciary reform the Ministry of Justice of Georgia had prepared the draft amendments on monitoring and evaluation criteria of judges. All the relevant stakeholders were involved in preparing the draft law and their recommendations were taken into account. The amendments were adopted by the Parliament and entered into force in August, 2014.

The amendments consist of the following main principles:

- According to amendments the evaluation shall be carried out based on two basic criteria – good faith and competence. During the three year probation period the judge is evaluated every year throughout a month by one judge and one non-judge member of the High Council of Justice. All three assessments each of them containing two parallel assessments of the relevant period shall be undertaken by different members of the Council;

- During the evaluation period evaluators carry out all the necessary measures to obtain needed information for assessing the judge according to the criteria. As noted above, one judge and one non-judge member of the High Council of Justice will study five judgments on the cases that were issued by the judge, attend trials, meet with the judge in person and obtain other information according to the rules prescribed by law;

- The competence of the judge is measured by scores. As for the good faith, in this criterion the result of the evaluation is whether the judge meets/fully meets the requirements or
does not satisfy them. The results are filled in the forms by the one judge and one non-judge member of the High Council of Justice and submitted to the High Council of Justice;

- After interviewing the judge and considering the results of the evaluation, the High Council of Justice makes a grounded decision on the life-time appointment of the judge by two thirds majority of votes.

- The judge has the right to appeal the decision on the refusal in a special board that will be set up within the system of the Supreme Court of Georgia. In the latter case the judge will have to prove that there was a violation of the procedure that affected on the decision of the High Council of Justice.

- If the Board finds the violation of the procedure, the decision on the refusal is annulled and the High Council of Justice has an obligation to consider the issue again taking into consideration the findings of the Board.

The specific criteria are based on the international standards and are the result of cooperation between the MOJ, international organizations and NGOs, any interesting parties as well as Georgian and European judges. Thus, after the probationary period, which is permitted by constitutional provision, judges will be appointed for lifetime tenure, that will provide internal and external independence of the judiciary.

As for extending the life tenure of members of the Supreme Court, this issue is regulated by the Constitution of Georgia (article 90, para.2) according to which, the members of the Supreme Court are elected by the Parliament of Georgia for not less than 10 years. Thus, extending the life tenure of members of the Supreme Court of Georgia requires reviewing the Constitutional provisions.

On October 4, 2013 the Parliament of Georgia established the Constitutional Commission which, along with other working groups, includes a working group of Human rights and fundamental freedoms, Judiciary and Chief Prosecutor’s Office. Thus, the discussion on necessity of amendments relating to extending the life tenure of members of the Supreme Court will be made by the Commission.

The third stage of the judiciary reform was launched focusing on guarantees of independence of the individual judges and refining disciplinary proceedings, its stages and terms. In accordance with draft amendments the terms of proceedings will be optimized and the disciplinary stages will be separated from each other. Consequently, the amendments will become more certain for all the interesting parties. In particular:

- The chairperson will not be authorised any more to initiate disciplinary proceedings against judges. The function will be transferred to the High Council of Justice;

- The draft ensures to increases the transparency of the High Council of Justice by obliging it to publish the information about the adopted decisions, on the session dates and agenda and all the relevant information related to its activities on the Council’s website;

- The draft requires that the Disciplinary Panel bears in mind that removal from the office as a disciplinary sanction is the last resort and will be used only in exceptional cases.
- The draft further increases the transparency of the disciplinary proceedings by allowing the judge to make the proceeding open to the public upon request.
- The chairperson of the court will not be authorized any more to initiate disciplinary proceedings against the judges. This function will be transferred to the High Council of Justice.

Therefore, the whole process before dismissal of judges will be comprehensively regulated and all the above mentioned changes will provide clear disciplinary proceedings, regulated according to the Venice Commission comments and recommendations. As a result it will be ensured that the process before dismissal of a judge is more clear and objective instead of the current vague and unclear regulations. The draft amendments will be submitted to the Parliament of Georgia in spring 2015.

- **Introduce promotion of judges based on competitive procedure with open announcement of vacancies and based on clear criteria for promotion**

The Ministry of Justice of Georgia received feedbacks and comments on the above draft amendments relating to the third stage of the judiciary reform from the Venice Commission. Most of the comments and recommendations were taken into consideration. In accordance with Venice Commission recommendation objective requirement for promotion of any judge was defined. It is noteworthy that it will be possible to appoint a judge of the district (city) court at the court of appeal, if she/he has been carrying out the judicial authority at the district (city) court for at least 5 years (instead of currently existing 2-year term), without any exceptions, as it was recommended by the Venice Commission. The precondition of promotion will provide to eliminate the capacity of making subjective decisions about the promotion instead of existing imprecise provisions.

Besides that according to the draft the right to official promotion will be restricted for the judges against whom the disciplinary proceedings were initiated. As mentioned above, the amendments will be submitted to the Parliament of Georgia in spring 2015.

In addition to stated above, from September 2014 the Association of Judges of Georgia held two workshops and one international conference to discuss the judicial promotion criteria. Meetings were held by the help of the Reserve Fund of the President of Georgia. Along with the other judges, the meetings were attended by the members of the High Council of Justice. The attendees discussed the practice of different countries in this field and steps were taken to agree on criteria of promotion of judges.

**Assessment of Progress - 15th Plenary**

The Government of Georgia has prepared a new set of amendments to continue the judicial reform, in particular to address the OECD/ACN recommendations with regard to criteria for selection of candidates of judges, disciplinary procedures as well as to promotion of judges based on competitive procedure with clear criteria. The Government plans to submit the amendments in the Parliament in the upcoming months. However, this is not sufficient to state progress.

Transparency International Georgia also noted that the situation was largely the same as in October 2014. The government has prepared a draft law on the disciplinary liability of Judges.
The draft law has been submitted to the Venice commission for review. No changes have been implemented in terms of the promotion of judges.

Lack of progress.

Recommendation 13

Study business integrity risks, raise awareness and train companies and government officials about these risks and prevention measures.

In co-operation with the business sector representatives, prepare and include in the national anti-corruption policy documents provisions on business integrity. Develop capacity of the business ombudsman to promote business integrity measures.

Implement integrity and anti-corruption plans for state-owned (state-controlled) enterprises.

Explore the possibility of concluding integrity pacts in large publicly funded projects.

Extend definition of the politically exposed persons to include Georgian nationals.

Ensure that information about ultimate beneficial owners of legal entities is obtained and disclosed through public registry.

13th ACN Istanbul Action Plan Meeting on 16-18 April 2014

Measures taken to implement this recommendation

- Study business integrity risks, raise awareness and train companies and government officials about these risks and prevention measures.

On March 21, 2014 Parliament of Georgia adopted the Law of Georgia on “Competition”. On the basis of the Decision (April 14, 2014 №288) of the Government of Georgia the Competition Agency was established. Among other things, the Agency is aimed at supporting the liberalization of Georgian market, promotion of free trade and competition. Competition Agency is planning to adopt normative acts concerning General Rules for Granting Small Amounts of Individual State Aid and State Aid and exceptions from the agreements prohibiting competition restrictions by 1st of September 1, 2014, while the normative acts on administrative proceedings for applications and complaints and investigation rules and procedures; application procedure for the distribution of the Leniency Programme and exemption from Liability (Leniency Programme); Methodological instructions of market analysis and rules for submission and consideration of notification on concentration should be adopted by October 1, 2014.

In September, 2014 Agency is planning to organize the presentation of above-mentioned normative acts with active participation of business sector representatives; Business Ombudsman's Office; Ministries of Georgia; Georgian experts and GIZ participating in the elaboration process of normative acts, and journalists. The aim of the meeting is to raise public awareness on Georgian legislation on competition and on the goals and objectives of competition policy, and ensure publicity of the Agency's activities.

- In co-operation with the business sector representatives, prepare and include in the national anti-corruption policy documents provisions on business integrity. Develop capacity of the business ombudsman to promote business integrity measures.
Prevention of Corruption in relation to Private Sector has been identified by the ACC as one of the Strategic Priorities of Fight against Corruption of 2014-2016 years. Therefore, the revision of the Anti-Corruption Strategy and elaboration of the new Action Plan will be based on these Strategic Priorities and carried out in cooperation with business sector representatives within the framework of the ACC and its WG (Sub-WGs).

- Implement integrity and anti-corruption plans for state-owned (state-controlled) enterprises.

The National Agency of State Property has developed SOE Management Strategy for 2014-2015 which aimed to provide effective management of the State-owned Enterprises (SoE).

National Agency of State Property has started gradual elimination of inactive SOEs, which are identified by standardised assessment process and liquidation, bankruptcy, reorganization or optimization procedures are initiated accordingly. Currently NASP manages 401 SOEs and this number is expected to decrease by 60 more enterprises by the end of 2013. In 2013, the Agency developed the new reporting format for the SOEs and obliged them to provide information about assets through independent auditors’ reports prepared annually.

- Explore the possibility of concluding integrity pacts in large publicly funded projects.

At this stage, no measures have been taken to implement this recommendation.

- Extend definition of the politically exposed persons to include Georgian nationals.

On December 23, 2013, the Government of Georgia established the Interagency Council for Developing and Coordinating Implementation of the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing. The Interagency Council is chaired by the Minister of Finance and consists of representatives from various state agencies involved in the fight against money laundering (ML) and financing terrorism (FT), including the Head of the Financial Monitoring Service and LEAs - the Deputy Minister of Internal Affairs, the Deputy Chief Prosecutor and the Head of the Ministry of Finance Investigative Department.

The Interagency Council was set up to enable the policy makers, LEAs and other competent authorities to cooperate and, where appropriate, coordinate effectively with each other development and implementation of relevant policies and activities aimed at fighting ML/FT.

The Interagency Council recently developed the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing, which was approved by the Government of Georgia on 18 March 2014.

One of the activities of the Action Plan is to elaborate amendment to the Law on Facilitating the Prevention of Illicit Income Legalization (AML/CFT Law) in order to extend the definition of politically exposed persons to the citizens of Georgia. The draft legislative amendment is planned to be developed and submitted to the Parliament of Georgia by 2015.

- Ensure that information about ultimate beneficial owners of legal entities is obtained and disclosed through public registry.

At this stage, no measures have been taken to implement this part of the recommendation.
Assessment of Progress

According to the TI, no notable work has been conducted to assess business integrity risks and to promote business integrity in Georgia; no business integrity measures were yet developed in the framework of the new anti-corruption Action Plan. The monitoring meeting noted that the National Agency for State Property developed an SOE management strategy and that the number of SOEs is expected to decrease; but noted that no measures were taken to improve the integrity and prevent corruption involving the SOEs. Information about beneficial owners is not available in the public registry. The meeting concluded that there is lack of progress in this area.

14th ACN Istanbul Action Plan Meeting on 8-10 October 2014

Measures taken to implement this recommendation

- Study business integrity risks, raise awareness and train companies and government officials about these risks and prevention measures.

On 14 April, 2014 based on the Government Decree №288 the Competition Agency was established. The main objective of the Agency is to implement competition policy, to create and maintain favorable conditions for the development of competition environment in Georgia, as well as to detect and suppress all types of anti-competitive agreements and activities in practice (Law on Competition).

Number of regulations is already elaborated and ready to be presented to the public this fall. The presentations will be held with the participation of business sector representatives; Business Ombudsman’s Office and line ministries of Georgia. The aim of the meeting is to raise public awareness on Georgian legislation on competition, goals and objectives of competition policy, and ensure publicity of the Agency’s activities.

- In co-operation with the business sector representatives, prepare and include in the national anti-corruption policy documents provisions on business integrity. Develop capacity of the business ombudsman to promote business integrity measures.

Prevention of Corruption in relation to Private Sector has been identified by the ACC as one of the Strategic Priorities of Fight against Corruption for the next years.

In the reporting period two meetings of thematic WG on Prevention of Corruption in relation to Private Sector have been organized. Sub-WG is chaired by one government representative from Competition Agency and one business sector representative – Georgian Business Association.

The draft logical framework developed so far includes in this regard: awareness raising and study of risks of business integrity; implementation of integrity and anticorruption programs in the state-owned enterprises; increase of transparency and objectivity in privatization process; strengthening cooperation between state and private structures on anticorruption issues; development e-regulation system in order to prevent corruption, etc.
As for the development of capacity of the Business Ombudsman, with this aim in the reporting period the Office of Business Ombudsman drafted the new Law on Business Ombudsman. The Law is undergoing expertise by the lawyers of the Chancellery of the Government. Law will be presented first to the Government for approval and to the Parliament subsequently.

With the aim to raise awareness on Office of Business Ombudsman a number of events have been held in the regions of Georgia. In addition, the representative of the Business Ombudsman was appointed in Adjara from 8 September, 2014 thereby making communication and cooperation between business sector representatives and the Tax Ombudsman Office more flexible in Adjara region.

Apart from mentioned, meeting with 10 non-governmental organizations working in tax sphere was organized by Business Ombudsman on 10 July, 2014. The situation of tax payers’ rights in Georgia and access to information on entrepreneurs’ were among the issues discussed during the meeting.

- **Implement integrity and anti-corruption plans for state-owned (state-controlled) enterprises.**

The work on optimization process of the inactive state-owned enterprises through liquidation, bankruptcy and privatization procedures was initiated by the NASP in 2013. As a result intensive work continued throughout 2014 from January-July, 2014 the number of state-owned enterprises was reduced by 19% (82 enterprises) and currently there NASP manages 354 enterprises. By the end of the year, acting state-owned enterprises will submit information about assets through independent auditors’ reports to the Agency according to the new reporting format (see information from previous reporting period).

- **Explore the possibility of concluding integrity pacts in large publicly funded projects.**

At this stage, no measures have been taken to implement this recommendation.

- **Extend definition of the politically exposed persons to include Georgian nationals.**

No new information on politically exposed persons as of April-August period. See information from previous reporting period.

- **Ensure that information about ultimate beneficial owners of legal entities is obtained and disclosed through public registry.**

At this stage, no measures have been taken to implement this part of the recommendation.

**Assessment of Progress**

Two thematic WG meetings on Prevention of Corruption in relation to Private Sector that is chaired by one government representative from Competition Agency and one business sector representative – Georgian Business Association, have been organized under the ACC.

The draft logical framework for the new Anti-Corruption Strategy and Action Plan includes: awareness raising and study of risks of business integrity; implementation of integrity and anticorruption programs in the state-owned enterprises; increase of transparency and objectivity in privatization process; strengthening cooperation between state and private
structures on anticorruption issues; development e-regulation system in order to prevent corruption, etc.

The Office of Business Ombudsman drafted the new Law on Business Ombudsman. The Law is undergoing expertise by the lawyers of the Chancellery of the Government. Law will be presented first to the Government for approval and to the Parliament subsequently. However, it is not known if the new draft will task this office with the promotion of business integrity.

Competition Agency was established 14 April; number of state-owned enterprises was reduced by 19% (82 enterprises) by NASP throughout January-July; acting state-owned enterprises will submit information about assets through independent auditors’ reports to the NASP according to the new reporting format.

The monitoring meeting welcomed progress under this recommendation.


Measures taken to implement the recommendation

(Brief summary of measures taken to implement recommendation provided by the National Coordinator)

- Study business integrity risks, raise awareness and train companies and government officials about these risks and prevention measures.
- In co-operation with the business sector representatives, prepare and include in the national anti-corruption policy documents provisions on business integrity. Develop capacity of the business ombudsman to promote business integrity measures.

Prevention of Corruption in relation to Private Sector is one of the Strategic Priorities of Fight against Corruption of the newly adopted Anti-Corruption Strategy and 2015-2016 Action Plan. Throughout 2014 business sector representatives together with NGOs, international organizations and state agencies were actively involved in the strategic development process (See Recommendation 1).

According to the new Anti-Corruption Strategy a long-term goal of this Priority is to support integrity, transparency and competition in private sector; to establish transparent principles of corporate management; to reduce risks of corruption by encouraging modern mechanisms of business integrity which will contribute to the improvement of investment environment and the economic growth.

The Strategy emphasizes that the previous Strategy was not narrowly focused on combating corruption, but rather concentrated on creating of simplified and transparent privatization process, increasing transparency and accountability of securities trading organizations, insurance companies and commercial banks. New the Anti-Corruption Strategy will narrow a focus and make an emphasis on the following:

- Study business integrity and integrity risks;
- Raising public awareness of business integrity issues;
- Institutionally strengthening the Competition Agency for the aim of preventing corruption;
- Reducing inactive and unprofitable state-controlled enterprises;
- Implementing integrity and anticorruption programs in state-controlled enterprises;
- Increasing transparency and objectivity in the privatization process;
- To study best international practices and if need be, draft regulatory norms to prevent conflict of interests of former public officials when moving to private sector.\textsuperscript{14}

\textit{Office of Business Ombudsman}

As for the development of capacity of the Business Ombudsman, with this aim to increase mandate of the Office of Business Ombudsman the new Law on Business Ombudsman was drafted. During the reporting period the Law was approved by the Government and already submitted to the Parliament.

Moreover, the \textit{new Anti-Corruption Strategy and Action Plan aimed at institutionally strengthening capacity of Business Ombudsman} (Priority 8; Result 8.4.) through:
- Determining legislative framework of capacity of the Business Ombudsman (office), main principles and forms of its functions;
- Increasing accountability of the administrative agencies towards Business Ombudsman (office);
- Increasing participatory role of the Business Ombudsman (office) in legal drafting processes;
- Increasing qualification of the Business Ombudsman (office), including on business integrity issues.

Apart from stated above, worth noting is that throughout 2014 the Business Ombudsman Office held more than 1000 meetings with business sector representatives and according to the statistics provided by the Office 80\% of recommendations issued by the Business Ombudsman Office towards state agencies were implemented.

\textit{Competition Agency}

As indicated during previous reporting period, on March 21, 2014 Parliament of Georgia adopted the Law of Georgia on Competition. On the basis of the Decision (April 14, 2014 №288) of the Government of Georgia the Competition Agency was established.

From September, 2014 \textit{five Orders of the Chairman of Competition Agency of Georgia were adopted}:

1) Order №30/09-1 - "On approval of the forms of applications and complaints, rules for their submission and procedures and deadlines related to the admissibility of the application and complaint";
2) Order №30/09-2 - "On Approving the Procedure for Applying the Leniency Programme and Benefiting from Exemption from Liability";
3) Order №30/09-3 - "On approval methodological guidelines of market analysis";
4) Order №30/09-4 - "On approval the procedure on submission and consideration of notification on concentration”;
5) Order №30/09-5 - "On approval of the rule and procedure of investigation".

Moreover, for the reporting period the \textit{Competition Agency elaborated the following acts}:
- 2014-2017 Action Plan of LEPL Competition Agency (16.07.2014 Order №16/07-1);

\textsuperscript{14} Anti-Corruption Strategy of Georgia, adopted by the ACC on 4 February, 2015.
It should be emphasized that following the high public interest the Agency on its own initiative has started the investigation of oil products’ market (petrol, diesel, kerosene) on 12 November 2014.

In addition, based on received letters from specific market entities, the issues were studied and within the competence the recommendations and suggestions were submitted to the relevant Executive Authorities and Legislature in order to improve the competitive environment. The Agency also systematically studies received applications and letters of economic agents in terms of their compliance with the Competition Legislation.

Finally, the following trainings were organized from September, 2014:
- Exemptions from the prohibition of competition restricting agreements - 21 – 25 July 2014 (Tbilisi);
- Leniency Program - 28 July – 1 August 2014 (Tbilisi);
- Horizontal and vertical agreements - 8 – 12 September 2014 (Tbilisi);
- Abuse of dominant position - 14 – 15 October 2014 (Warsaw);
- State aid procedures - 23 – 24 October 2014 (Tbilisi);
- Cooperation between competition authorities and sector regulators - 6 – 7 November 2014 (Tbilisi);
- Assessment of the level of market concentration - 27 – 28 November 2014 (Tbilisi);
- Imposing and calculation of fines - 11 – 12 December 2014 (Tbilisi).

- Implement integrity and anti-corruption plans for state-owned (state-controlled) enterprises.

One of the outcome the newly adopted Anti-Corruption Strategy (Priority 9) and Action Plan (Result 9.3.) is to increase integrity of state-owned (state-controlled) enterprises. The Strategy emphasizes that priority in this regard will be reduction/privatization of state-controlled enterprises on the basis of developed criteria; support planning and implementation of anticorruption policy in state-controlled enterprises as well as improve reporting process. Moreover, consideration must be given to introduction of rules regulating ethics and establishment of methodology of self-assessment studies.

According to the Action Plan accountability and integrity of state-owned enterprises will be increased through the following activities:
- Determining effective priorities and measures of the long-term Strategy and Action Plan to increase transparency and accountability of state-owned enterprises;
- Improving reporting mechanism of state-owned enterprises;
- Creating and implementing in practice a template on identification of information on implemented measures;
- Developing proposals on recruitment of management of state-owned enterprises through competition;
- Conducting trainings in anticorruption issues for management of state-owned enterprises;
- Reducing a number of inactive and unprofitable state-owned enterprises;
- Proactive publication of information on anticorruption measures regarding state-owned enterprises on the web-page of the National Agency of State Property.

The work on optimization process of the inactive state-owned enterprises through liquidation, bankruptcy and privatization procedures initiated by the National Agency of State Property in 2013 has been continued during the reporting period, particularly from September, 2014 to February, 2015 the number of state-owned enterprises was reduced by 21% (from 341 to 269, total - 72 enterprises) and currently there NASP manages 269 enterprises.

- **Explore the possibility of concluding integrity pacts in large publicly funded projects.**

At this stage, no measures have been taken to implement this recommendation.

- **Extend definition of the politically exposed persons to include Georgian nationals.**

Ensuring full implementation of the definition of "politically exposed persons" elaborated according to the FATF recommendation (Activity 5.6.4) is one of the commitments of the newly adopted Action Plan (2015-2016).

- **Ensure that information about ultimate beneficial owners of legal entities is obtained and disclosed through public registry.**

Business registry is run by the National Agency of Public Registry under the Ministry of Justice of Georgia.

Georgian legislation is consistent with OECD recommendation requirements, since the registered data of companies are public and is available to all interested parties.

Disclosure requirement of the Business Registry also applies to company shareholders, in which the registrations of shares in Business Registry are mandatory under the law of Georgia. Such legal entities are Limited Liability Company and limited partnership.

The legislation and practice is in accordance to OECD recommendation requirements, because information about company shareholders starting from the foundation of the company is public and easily accessible for the interested persons via the website of the National Agency of Public Registry (http://napr.gov.ge/), which grants a simple mechanism for accessing and operating abovementioned information.

**Assessment of Progress - 15th Plenary**

Prevention of Corruption in relation to Private Sector is one of the Strategic Priorities of Fight against Corruption of the newly adopted Anti-Corruption Strategy and 2015-2016 Action Plan. They foresee such activities as study of business integrity; raising awareness of business integrity issues; strengthening the Competition Agency for the aim of preventing corruption; implementing integrity and anticorruption programs in state-controlled enterprises; increasing transparency and objectivity in the privatization process; and study best international practices and if need be, draft regulations on revolving doors. It also foresees building the capacity of the
Business Ombudsman (office) for business integrity, however, it is not clear how the duty of this body would complement those of the Competition Agency.

Government argues that the existing Company registry provides information of beneficiary owners of companies in Georgia.

Apart from the official adoption of the Business Integrity as a part of the Anti-Corruption Strategy and decrease in a number of state-owned enterprises (by 21%) there is no new tangible progress.

PART II: OTHER MAJOR ANTI-CORRUPTION DEVELOPMENTS

In 2013 with the aim to overhaul the mechanism of whistle-blower protection and bring it in compliance with international standards, in cooperation with the Civil Service Bureau the Ministry of Justice elaborated to Chapter V (protection of whistle-blower) of the Law of Georgia on Conflict of Interest and Corruption in Public Service.

Various international instruments were used in the drafting process. Furthermore, within the framework of EAP/CoE Facility Project on "Good Governance and Fight against Corruption", the amendments were submitted to the CoE for expertise. The CoE adopted its Recommendations (Technical Paper) on the Draft Amendments to the Law of Georgia on Conflict of Interest and Corruption in Public Service in September 2013. The amendments were refined accordingly by the Ministry of Justice in November 2013. Amendments were adopted by the Parliament of Georgia and entered into force in April 2014.