



**ACN**

**Anti-Corruption Network for Eastern Europe and Central Asia**

Anti-Corruption Division

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**ISTANBUL ANTI-CORRUPTION ACTION PLAN**

**GEORGIA**

**PROGRESS UPDATE**

This progress update on the implementation of recommendations from the Third Monitoring Round report for Georgia of September 2013, was adopted at the 13<sup>th</sup> meeting of the ACN Istanbul Action Plan on 16-18 April 2014.

## SUMMARY

The third round monitoring report on Georgia was adopted by the Istanbul Action Plan monitoring meeting in September 2013. The progress report on implementation of the recommendations adopted in the third round 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 experts, 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.

<i>Recommendation</i>	<i>Progress in implementation</i>
<i>Recommendation 1: anti-corruption action plan</i>	Progress
<i>Recommendation 2: public awareness raising and public participation</i>	Progress
<i>Recommendation 3: resources of anti-corruption policy body</i>	Lack of progress
<i>Recommendation 4: responsibility of legal persons</i>	Lack of progress
<i>Recommendation 5: sanctions and plea bargaining</i>	Lack of progress*
<i>Recommendation 6: time limits for prosecution</i>	Lack of progress
<i>Recommendation 7: independence of prosecution</i>	Lack of progress
<i>Previous recommendation 2.7.: international mutual legal assistance</i>	Progress
<i>Previous recommendation 3.2.-3.3.: civil service reform</i>	Progress
<i>Recommendation 8: financial control and audit</i>	Progress
<i>Recommendation 9: public procurement</i>	Progress
<i>Recommendation 10: access to information</i>	Progress
<i>Recommendation 11: political party finance</i>	Progress
<i>Recommendation 12: judiciary</i>	Progress
<i>Recommendation 13: business integrity</i>	Lack of progress

\* The monitoring meeting decided that there is lack of progress in this area as 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 report has been approved through internal procedures.

## PART I: PROGRESS IN IMPLEMENTING RECOMMENDATIONS

### 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.

#### Measures taken to implement this recommendation: *(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

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.*

The revision of the National Anti-Corruption Strategy<sup>1</sup> 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 5<sup>th</sup> 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 14<sup>th</sup> 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.

2. *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.*

<sup>1</sup> 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).

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**

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.

### **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.

**Measures taken to implement this recommendation:** *(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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<sup>2</sup>. At the same time, in order to contribute to the OGP Action Plan development space for online consultations was created where 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 progress in regions. Meetings will be organized in the capital as well.

The meetings are facilitated by two speakers – one government and one NGO representative. They

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<sup>2</sup> <http://www.justice.gov.ge/Ministry/Department/349>.

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.

2. *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.

### **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.

**Measures taken to implement this recommendation:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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 (due to the changed po). 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.

2. 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 [web-page](#) 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 web-page. After the Assessment of the 2010-2013 Action Plan implementation process is finalized, it will be published as well.

**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.

## 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.

### Measures taken to implement this recommendation: *(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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.

2. *Provide investigators and prosecutors with a manual on effective investigation and prosecution of corruption cases involving legal persons.*
3. *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.

4. 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.

**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:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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.

2. 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 11<sup>th</sup> 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.

#### **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.

#### **Measures taken to implement this recommendation:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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.*

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**.

#### **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.

#### **Measures taken to implement this recommendation:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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.

2. *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.

3. *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.

**Previous recommendation 2.7.** (No new recommendation is made under this section; previous recommendation remains valid)

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

**Measures taken to implement this recommendation:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

1. *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.

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

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.

**Assessment of Progress**

The meeting noted that the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters was signed and ratified by Georgia and agreed that there is **progress** regarding this recommendation.

**Pillar 3. PREVENTION OF CORRUPTION**

***Pervious recommendation 3.2.-3.3. (No new recommendation is made under this section; previous recommendation remains valid)***

*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.*

**Measures taken to implement this recommendation:**

1. *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 it 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.

2. *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.

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

Relevant proposals are foreseen by the Draft Civil Service Reform Concept.

- 4.** *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 for the guidebook and examples were agreed upon during the workshop. The organizational frameworks and future plans were also discussed. The guidebook 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 amendment the following positions were added to the list of the following 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 involving various. 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.

### **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.

### **Measures taken to implement this recommendation:**

1. *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.

- 2. 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).

- 3. 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.

- 4. 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.

5. *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.

6. *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.

7. *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.

#### **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.

#### **Measures taken to implement this recommendation:**

1. *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.

*2. 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.

*3. 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.

- 4. 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.

- 5. 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.

### **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.

**Measures taken to implement this recommendation:**

- 1. 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 OSFG experts) have intensive meetings to draft the new law. The Draft Law is planned to be finalized by the end of 2014.

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

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

- 3. 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.

- 4. 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 1<sup>st</sup> 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.

5. *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<sup>th</sup> 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<sup>th</sup> March, 2014.

### **Assessment of Progress**

Review of FOI act was initiated in 2014, with the participation of the civil society. The first meeting 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.

### **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.

**Measures taken to implement this recommendation:**

1. 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.

2. *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](http://www.sao.ge) and will continue its efforts to achieve full transparency of political finances.

3. *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](http://www.sao.ge).<sup>3</sup>

4. *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.

<sup>3</sup> 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>

**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.

**Measures taken to implement this recommendation:** (brief summary of measures taken to implement recommendations provided by the National Coordinator)

1. 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.

2. 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 judges to the current judges at this state 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.

**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.

**Measures taken to implement this recommendation:**

*(brief summary of measures taken to implement recommendations provided by the National Coordinator)*

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

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

2. *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).

3. *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.

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

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

*5. 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.

*6. 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; 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.

## **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<sup>1</sup> (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.