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**Regional Anti-Corruption Action Plan
for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, Tajikistan
and Ukraine**

Review of Legal and Institutional Framework for Fighting Corruption

Georgia

*Addendum
to the Summary of the Update Report and of the Discussion*

Endorsed on 17 June 2004

This Addendum to the Summary Assessment and Recommendations was endorsed at the Second Review Meeting, which took place in Paris, 16-18 June 2004. The original Summary Assessment and Recommendations were endorsed at the First Review Meeting, which took place in Paris, 21 January 2004.

I) NATIONAL ANTI-CORRUPTION POLICY, INSTITUTIONS AND ENFORCEMENT

General assessment

Since the January 2004 anti-corruption review of Georgia in the framework of the Istanbul Action Plan, Georgia has implemented a number of significant political reform measures aimed at strengthening the democratic principles and the rule of law in the country, and at enhancing the effectiveness and efficiency of the public management. According to the updated report, the main political reform measures included the following:

- Elections of the President and of the Parliament;
- Changes in the Constitution, including the creation of the Cabinet and introduction of the post of the Prime Minister;
- Reorganisation of the Executive Power by replacing the 3 tiered system by 2 levels (ministries and lower level bodies), reducing the number of agencies and improving their coordination;
- Ensuring the authority of the state by re-establishing the authority of the state in the autonomous republic of Ajara.

Fighting corruption is identified among the top priorities of the new President and the Government in the overall framework of reform. According to the updated report there are a number of approaches pursued in the field of anti-corruption policy and institutions:

- Anti-Corruption Strategy: launching the elaboration of a new Anti-Corruption Strategy by a special group of the National Security Council; active involvement of the civil society is foreseen;
- Anti-Corruption Institutions: transferring the authorities of the Anti-Corruption Bureau for policy development and coordination to the National Security Council under the President; establishing a special division for fighting corruption in the office of the Prosecutor General;
- Law-Enforcement: fighting the "syndrome of impunity" and reaffirming the rule of law by effective prosecutions and convictions, e.g. 20- 40 high level officials were detained for the official malfeasance and economic crime;
- Judicial Reform: Strengthening the possibility of the Council of Justice to undertake disciplinary actions against judges, and the introduction of jury trials in some cases of administration of justice.

During the discussion at the Second Review Meeting, the participants welcomed the recent political measures as well as anti-corruption approaches pursued by Georgia, and wished success in the further reform process.

General recommendations

1. *Recognising that the magnitude of challenges calls for active and rapid actions, Georgia should ensure that policy reforms are carried out in a fully transparent and participatory manner, are based on sound analysis and consistent with the overall reform objectives. In particular, the elaboration of the new Anti-Corruption strategy by the National Security Council should be open for public participation, pursuant to January recommendations 1 and 2.*
2. *The establishment of the special anti-corruption division in the Prosecution is related to the January recommendation 3 concerning the establishment of a specialised anti-corruption agency. At this early stage the recommendation 3 can be reiterated to encourage further efforts ensuring proper*

independence of such a body, its mandate for law-enforcement and prosecution, and its role of coordinating various law-enforcement, security and financial control bodies.

3. *Significant achievements of the law-enforcement activities were noted during the discussion. Such efforts should continue to promote the implementation of the anti-corruption policy, fully based on objective data and in accordance with the law. Statistics on anti-corruption cases should be carefully maintained and made public.*

II) LEGISLATION AND CRIMINALISATION OF CORRUPTION

General assessment

Despite a very short time since the January review, Georgian updated report informs of a number of important changes in the national legislation, some of which are related to the January recommendations. The main changes are summarised below:

- Immunities: reduction of the number of officials protected by immunities as well as the scope of immunities;
- Confiscation: adoption of legal provisions for the investigation of illegal or unjustified property, introduction of the institution of withdrawal of illegal property;
- Efficiency of investigation and prosecution: introducing plea-bargaining in the criminal procedure; enhancing the possibilities to apply special investigative means in collection of evidence;
- Confiscation of proceeds from crime: Georgia has adopted a new law, which provides legal basis for confiscation of unjustified property, and addresses January recommendation 9 concerning the confiscation of proceeds of corruption; additionally new measures are being introduced outside criminal process to enable confiscation of unexplained wealth (through the reversal of burden of proof);
- New criminal procedure code is under development.

General recommendations

4. *Ensure the implementation of outstanding January recommendations, in particular recommendations 6, 7, 8 and 10, which relate to bringing up criminalisation of bribery and corruption related offences in line with international standards (such as the Council of Europe's Criminal Law Convention on Corruption, the United Nation's Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions) and to responsibility of legal persons for corruption offences;*
5. *Ensure the fulfilment of recommendations endorsed for Georgia under the first evaluation round by Council of Europe's Group of States against Corruption (GRECO);*
6. *Monitor the newly established confiscation of proceeds regime and the confiscation of unexplained wealth and invest special attention that they are implemented in a non-discriminatory and non-arbitrary manner through proper checks and balances and safeguards.*

III) TRANSPARENCY OF THE CIVIL SERVICE AND FINANCIAL CONTROL ISSUES

General assessment

On the preventive side of anti-corruption measures, the updated report of Georgia mentions a number of recent measures, including the following:

- Adequate remuneration for civil servants: establishment of the Development and Reform Fund to provide additional payments to some categories of civil servants.
- Financial police: established under the Ministry of Finance to consolidate the law-enforcement functions in the field of economic crime.
- Tax and Budget Reforms: introduction of legal provisions for identification of excessive taxes, and streamlining of tax administration, improvements of the development and execution of the state budget.
- Money laundering: improvement of the effectiveness of the Financial Monitoring Service and establishment of the Financial Intelligence Unit (recommendation 21).

During the discussion, rapid and profound reform of staffing of the government was noted. The participants noted that a more transparent system of hiring of new civil servants as well as of the use of the salary fund is needed, in line with January recommendation 13.

Tax reforms, consistent with January recommendation 20, were noted during the discussion as an important measure to reduce the incentives for bribe taking, and for the general economic development in the country.

General recommendations

7. *Ensure the implementation of outstanding January recommendations in the area of transparency of civil service and financial control issues.*
8. *Further steps towards liberalisation of business environment should be promoted. Such steps could include, for instance, a diagnostic of administrative barriers for business activities¹.*

¹ Such diagnostic is being tried at the regional level in the Russian Federation, and provides for a bi-annual survey on the implementation of legislation for business regulation, e.g. on licensing, inspections and registration.