

INSTITUTE FOR DEVELOPMENT OF  
FREEDOM OF INFORMATION



**Institute for Development of Freedom of Information**

**Recommendations of IDFI on Perspective Commitments  
for the Open Government Partnership Georgia Action  
Plan 2016-2017**

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The Institute for Development of Freedom of Information (IDFI) believes it is necessary that responsible agencies and commitments are added to the OGP Georgia Action Plan 2016-2017 which will further promote and spread the OGP principles and values in the executive power of Georgia. Only 16 agencies were involved in the OGP Georgia Action Plan 2014-2015.

IDFI recommends following entities participate in the OGP Action Plan: Ministry of Regional Development and Infrastructure of Georgia (which has expressed readiness to join the OGP Georgia Action Plan 2016-2017 with a specific commitment); Ministry of Labour, Health and Social Affairs of Georgia; Prosecutor's Office of Georgia, National Statistics Office of Georgia, Ministry of Corrections of Georgia, Ministry of Defence of Georgia, Ministry of Energy of Georgia, Ministry of Economy and Sustainable Development of Georgia, Ministry of Finance of Georgia, Ministry of Environment and Natural Resources Protection of Georgia, National Bank of Georgia, LEPL Competition Agency, JSC Georgian Railway, Commission established by the law on Freedom Charter, Georgian National Communications Commission and Georgian National Energy and Water Supply Regulatory Commission, JSC Partnership Fund, LEPL Development Agency of Agricultural Cooperatives, and municipalities that are expressing their willingness to share the practice of OGP member countries on improving the civil service, promoting civic engagement and strengthening accountability.

IDFI has also prepared the concept of recommended commitments, which will promote the implementation of OGP principles if included in the Action Plan. Moreover, IDFI has a specific proposal on several commitments presented by various entities.

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## 5. Ministry of Defence of Georgia



The Ministry of Defence has not been involved in OGP Action Plans and many different steps can be taken by the entity to increase transparency. Therefore, IDFI believes that it would be useful if the Ministry engaged in the elaboration of the OGP Action Plan 2016-2017. Initiatives of the Ministry of Defence can be formulated as increasing transparency at the Ministry (establishing a consultative public council on the transparency of Ministry's activities), increasing transparency of its procurement and implementing other principles of the Open Government Partnership.

## 6. Ministry of Internal Affairs of Georgia



IDFI recommends that a commitment is added on Visualization of Criminal Justice Statistics and on increasing transparency and accountability of the activities of General Inspection. In order to increase transparency and accountability of the work of General Inspection it is possible that the agency conducts and publishes statistics on disciplinary proceedings of its employees. The statistics can be divided into disciplinary offenses, appeals and investigations launched by the Ministry. Fulfilling the above-mentioned commitment will promote public awareness on the ongoing processes in the MIA, will increase transparency of the General Inspection, which has been a closed part of the Ministry.

## 7. Prosecutor's Office of Georgia



IDFI believes it is necessary for the Prosecutor's Office to become more engaged in increasing transparency, accountability, promoting civic engagement, improving public services, use of technologies, innovations, etc. It should be noted that the Prosecutor's Office does not publish statistics on the criminal prosecution. Moreover, IDFI believes it is important the Prosecutor's Office produces thorough and comprehensive statistics on its activities. Such practice will facilitate informing the public about criminal prosecution (and its trends). Except of the above-mentioned initiatives, it would be good if the Prosecutor's Office presented its commitments to join the OGP Action Plan 2016-2017 and OGP Georgia Forum.

## 8. Ministry of Corrections of Georgia



The Ministry of Corrections of Georgia has not participated in OGP Action Plans, neither is a member of the OGP Forum. IDFI recommends that the Ministry engages in the OGP Action Plan 2016-2017. IDFI also recommends that specific commitments are developed on establishing electronic filing system on prisoners. Implementing the mentioned commitment will be a big step forward in terms of improving e-governance. Also, IDFI understands that fulfilling the commitment requires financial and human resources, however, fulfilling this commitment will bring great results to the Ministry as well as to the OGP Forum and the OGP Georgia Action Plan 2016-2017.

IDFI recommends that the Ministry of Corrections take steps in archiving the private case files of former prisoners. Currently, files are not archived and are in danger of destruction. It is important that in the first stage these documents are archived/sorted in their physical form, and then are converted to an electronic format and saved.

It is also significant that the Ministry creates a public transparency group, which will support improving transparency, accountability and citizen participation into the entity.

## 9. Establishing Corporate Transparency by Openness of the Financial Reports



Corporate transparency is a cornerstone of investor's trust and protection of creditors. Attracting investors and establishing market relations based on trust has a special significance for Georgia as it is a developing country.

Financial openness, through financial reports, is a common practice in EU countries as well as countries that are members of OGP. Financial reports usually consist of several components, such as: balance, income statement, and cash flow statement, statement of changes in equity, report definitions, management report, and number of employees. Such a report gives a general idea about a company's assets, liabilities, capital, income and expenses over a specific time period.

Openness of financial reports is ensured in countries, such as the United Kingdom, Germany, Latvia, the Netherlands, Sweden, Croatia, etc. In these countries, financial reports are accessible for any individual. Also, in these countries, reporting obligation does not apply only to joint stock companies, which are trading on the stock exchange with shares, but applies generally to joint stock companies and to private limited companies (Ltd).

Access on financial reports is the basis for informed decisions made by investors and clients. In particular, access to financial reports makes it easier for investors to make decisions about whether making initial/additional investments in the company is worth it; whether, and/or in what period, the debtor company will be able to return the loan; clients are given an opportunity to determine whether any delays are expected in business-operations (e.g., product/service delivery); audits can make objective assessments of company activities; analysts will have the ability to praise or criticize methods of doing business; the government will be able to protect its citizens from fraud; and the companies themselves will be able to demonstrate the viability of their business and find potential investors.

In case of Georgia it is important to involve additional participants in the work of OGP Forum, who will support openness and transparency of enterprises licensed by them. Activities taken under the Corporate Transparency Obligations should reach not only the corporations trading securities on the

Stock Exchange, but generally to the financial sector, state shareholding enterprises and the enterprises regulated by the National Regulatory Commissions.

## 9.1 Ensuring Access to the Financial Report of Accountable Shareholdings and Other Representatives of Financial Sector



First of all, it is important to involve the National Bank of Georgia as a member of the Forum, since, according to the organic law, it is the agency conducting supervision on financial sector. The Association of Georgian Banks should also be invited to become a member of the OGP Forum. It is important that the openness of financial reports of all financial sector representatives are ensured. In particular, according to the Law on National Bank of Georgia, representatives of the financial sector are: commercial bank, non-bank deposit institution, brokerage firm, independent registrar of securities, asset management company, a central depository, specialized depository, stock exchange, microfinance organization, founder of the private pension scheme, insurance brokerage company, accountably company, qualified credit institution, money transfer agent, and the local exchange entities.

## 9.2 Increasing Transparency of Enterprises Regulated by the National Regulatory Authorities (Georgian National Communications Commission and Georgian National Energy and Water Supply Regulatory Commission)



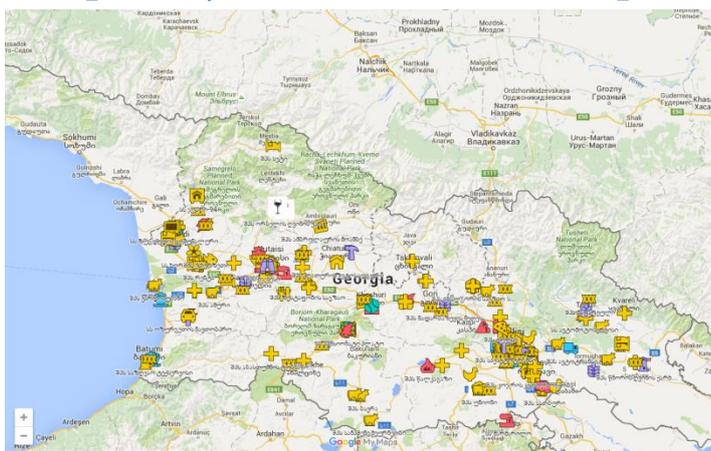
It is important to include national Regulatory Authorities (Georgian National Communications Commission and Georgian National Energy and Water Supply Regulatory Commission) in implementing corporate transparency obligation and openness of reports of enterprises regulated by them.

Fields that are regulated by national regulatory commissions have a special significance (e. g., gas, electricity, water resources, etc.), and enterprises working in the these fields represent the so-called public interest entities.

In particular, functioning of these public interest entities has a fundamental significance for financial stability, since their bankruptcy may cause many investors and interested individuals to suffer. In the [EU countries](#), public interest entities include financial institutions, companies whose shares are traded on the securities market, insurance companies, pension funds, state ownership companies, companies working in the field of natural resources, investment companies and others.

Therefore, it is important that they are involved as the members of the national regulatory authorities and openness of their financial reports is regulated by them.

### 9.3 Increasing Transparency of State Owned Enterprises



Studies published by various organizations, among them the State Audit Office of Georgia – Audit of Effectiveness of Management of State Owned Enterprises Report, the Institute for Development of Freedom of Information (IDFI) – State Enterprises in Georgia and their Effectiveness, Georgian Young Lawyers’ Association – Transparency and Accountability of State-based Enterprises, point to an extremely difficult financial condition of state shareholding companies, which is considered one of the main reasons for the lack of transparency and standards that ensure access to information.

State shareholding companies are budgetary organizations of special public interest. Therefore, their openness is important. It is recommended that the Partnership Fund is involved in fulfilling of the mentioned commitment, however, its involvement should not be understood as promotion of the transparency of only Partnership Fund participant companies. Accessibility of all state shareholding companies’ financial reports is very important.

## 10. Supporting Georgia's Integration into the Extractive Industries Transparency Initiative (EITI)



Extractive Industries Transparency Initiative (EITI) is a global standard supported by various states, organizations and stakeholders. The Initiative aims at open and accountable management of natural resources and, thus, improving the governance systems of governments and commercial entities.

The relevance of EITI was highlighted recently (in relation with the possible additional gas supply from Russia, as a result of statements by a company Frontera regarding Georgian gas resources, after confrontations on the Sakdrisi-Kachagiani gold mine), when it became obvious that civil society is not well-informed about the topics of transit or use of natural resources.

Implementing EITI principles improve civic awareness and resolution of disputes among sides (companies and employers). Thus, EITI is an important guarantee of public awareness and a platform for conducting a dialogue between employers and employees.

Institute for Development of Freedom of Information (IDFI) along with other non-governmental organizations supports Georgia's integration into EITI. For the first time in 2012, among the recommendations prepared for the Government of Georgia by SCOs was the Implementation of the Extractive and Transit Industry Transparency Initiative, and later in 2013, another set of recommendations were prepared for the Government to consider integration into EITI - Implementation of EITI in Georgia".

Implementing the EITI principles in Georgia - publishing information about the revenues received from oil and gas operations and other taxes, licenses or permits - will change the business environment considerably. Citizens will have an opportunity to examine the revenues accumulated in budget from oil and gas pipelines, as well as from extractive industries. Different governmental and non-governmental structures should be engaged in the project, such as the Ministry of Energy of Georgia, Ministry of Environment and Natural Resources Protection of Georgia, Ministry of Economy and Sustainable Development of Georgia, Ministry of Finance of Georgia, Ministry of Environment and Natural Resources Protection of Georgia to Georgian Railway, as well as all commercial legal entities that are involved in the industry and are willing to engage in the EITI.

IDFI supports Georgia's engagement in Extractive Industry Transparency Initiative. Implementing the international standard of transparency and accountability will enhance the investment and, generally, business environment, will improve corporate governance, promote openness of government policy, and increase citizen awareness and control over transit and extractive industries, which would contribute to increased citizen trust in government officials and decrease the risks of corruption (please, see the [research conducted by IDFI](#)).

## 11. Including Municipalities in the Forum (Pilot Version)



A research conducted by IDFI shows that the principal commitments regarding self-governing entities taken up by the OGP member states involves increasing public engagement, creating electronic platforms, participation of youth, senior citizens and the physically disabled in the activities and work of the self-governing entities and other issues.

In case of Georgia, intensifying policies vis-à-vis self-governing entities and sharing best practice of OGP member states is especially important. Essentially, this will bolster the implementation of the provisions of the Law on Local Self-Government of Georgia.

IDFI believes that the representative and executive branches of self-governing entities must share the best practice of introducing openness, citizen participation/engagement and electronic governance. This especially includes initiatives such as:

1. Participatory Budgeting, which implies spending a specific part of the local budget according to the initiative of the citizens. This will enhance financial transparency, accountability of self-governing bodies, and public participation.
2. Creating electronic platforms, which on the one hand, will give citizens an opportunity to identify problems in the self-governing entity (in terms of improving infrastructure, traffic accidents, protection of the environment, product quality and other matters), and on the other hand, will serve as a cost-saving mechanism for the self-governing entities.
3. Proactively publishing information in a convenient format, especially in regards to financial documents. Additionally, disclosure of financial documents that are connected to the funding of commercial and non-commercial organizations.
4. It is particularly important to constantly renew information on the official websites of self-governing entities, as well as publish reports, agendas and decisions of the meetings of representative bodies.
5. In order to implement the principles of the Open Government Partnership, it is essential to train employees of the self-governing entities, as well as those citizens willing to participate in the work of self-governing bodies; additionally, supporting participation of youth, the physically disabled and senior citizens in the work of self-governing entities.

It is important that municipalities are involved in this forum on a trial basis and that they implement at least a part of the above-mentioned initiatives.

## 12. Supporting Transparency and Accountability in the Competition Agency



The Association Agreement with the EU includes an obligation for the Georgian government to support the development of the competition law and harmonize the Georgian competition legislation with that of the EU.

The legal basis for establishing the Competition Agency in Georgia was the Law of Georgia on Competition. The competition Agency is a Legal Entity of Public Law, which is headed by the chairperson appointed by the Prime Minister. The agency is accountable to the Prime Minister of Georgia. The aim of the Competition Agency is to support free trade and competition in Georgia, specifically: prevent the imposition of administrative, legal and discriminative barriers to entry into the market by state authorities, authorities of the Autonomous Republics and/or local self-government authorities; ensure proper conditions for free access of enterprises to the market; prevent unlawful restriction of competition between enterprises; safeguard the principle of equality of enterprises in their activities; prevent the abuse of a dominant position; ensure maximum publicity, fairness, non-discrimination and transparency of an authorized body in the decision-making process.

Since the competition law is one of the most important areas in terms of EU integration, and the decisions made by the Competition Agency can positively or negatively influence enterprises in Georgia, especially taking into account the fact that the agency is accountable to the Prime Minister, it is important to invite the agency to participate in the Open Government Partnership Forum, so that it introduces principles of Open Government Partnership in its activities. Recommendations for the Competition Agency could be creating a roadmap for economic actors, more transparency in regards to the decision-making process, introducing electronic governance in the agency's work, and other matters. Inviting the agency to the forum will ensure its transparency and objectivity during the decision-making process.

### 13. Creation of Citizen Involvement Councils (Pilot Version) for Crime Prevention Purposes



In international practice, one of the most prominent methods of supporting police accountability and creating public mechanisms for crime prevention is Citizen Involvement Councils.

A Citizen Involvement Council is not a control mechanism for the police. It is an instrument that strengthens public involvement in the work of law enforcement bodies, which in itself enhances the oversight on police. Boards with similar functions exist in the US since the 1960s and at present there are more than 200 boards across US, for example, in Denver (Citizen Oversight Board) or in Salt Lake City (Panel Review Board).

According to the US board model, the composition of the board is approved by the local self-governing body. The municipalities also ensure the functioning of the boards. The citizen engagement board is completely independent from the Ministry of Internal Affairs.

The members of Citizen Involvement Councils will not be remunerated while participating in the council – (since it is an obligation of a citizen to be engaged in the establishment of crime prevention mechanisms and supporting the work of the Ministry of Internal Affairs).

Citizen engagement board deliberates on complaints of citizens against the abuse of power by the police; in case of signs of criminal offense, the complaint is forwarded to the Prosecutor's Office and the General Inspection of the Ministry of Internal Affairs; provides citizens with free legal assistance, including by directly addressing the court; holds meetings with schoolchildren, students, the population, experts and other representatives of the society; promotes mutual-trust between the public and police, supports the police with advice on creating public involvement mechanisms for combating crime.

The Citizen Involvement Council is composed of 5 to 10 members. In Georgia, the board can include representatives of different sectors: media, non-governmental organizations, LEPL Legal Aid Service (since the Legal Aid Service provides free legal assistance in case of criminal offenses, including during court hearings); representative of the local municipality; student; teacher/lecturer; social workers of the National Probation Agency/Corrections Department/Center for Crime Prevention; mediator; representative of the Public Defender (Ombudsman);

A person can be elected as member of the Citizen Involvement Council once for a period of 2 years. The chairperson of the board can be elected once for a 1 year term.

The Citizen Involvement Council is the connecting link between the public and the police, and at the same time serves as an instrument for reinforcing trust in police. However, as mentioned above, the most important part of the board is public engagement. Monitoring, in this sense, can also be counted as engagement. As a result, the public is involved in the work of the police and combats crime in collaboration with it.

Since the main challenge of the Open Government Partnership is to improve public services and increase accountability, and since obligations connected with Safer Communities are very common for OGP countries, we believe that introducing Citizen Involvement Councils on a trial basis (for example, only in several municipalities to start with) and supporting their activities would be an important first step.

## 14. Supporting Efficient Functioning of the Commission Created on the Basis of Charter of Freedom, Transparency of the Process and Increasing Accountability



One of the aims of the Charter of Freedom is to prevent and react to acts against statehood, terrorist acts and acts directed against state security, as well as strengthen national security, take preventive measures against promotion of communist and fascist ideologies and symbols, eradicate communist and fascist monuments, bas-reliefs, writings, street names, squares, villages and settlements with communist or fascist names.

In order to fulfill the above-mentioned goals, the Charter of Freedom entails creating a special commission, which will collect data and create a registry of those persons, who collaborated with secret intelligence services of the former USSR. The law creates a mechanism, which ensures registering employees of Soviet intelligence agencies and high level officials who were collaborating with them. For example, the commission reveals the identities of and information about the persons, who collaborated or were closely associated with Soviet intelligence agencies, who still hold high level positions (minister, deputy-minister, judge, governor, rector of a state university, dean etc.) and refuse to resign within the period determined by the law.

At present, we can claim that the commission does not function at all and the state security service (which will include the above-mentioned commission) cannot ensure the implementation of the Charter of Freedom.

In order to have a full-scale lustration in Georgia, similar to other post-soviet states, the Institute for Development of Freedom of Information (IDFI) believes that it is crucially important that the commission functions efficiently. This will be possible if the commission of the Charter of Freedom is part of the Forum and fulfills the obligation of holding meetings systematically and creating a registry (offering information on those persons who collaborated with Soviet intelligence agencies).

## 15. National Statistics Office of Georgia



The National Statistics Office of Georgia has not been involved in any OGP action plans. Conducting statistics is essential in all public institutions in order to ensure evidence-based policy. Therefore, IDFI recommends that the National Statistics Office of Georgia creates a unified guide for conducting statistics at public institutions. The guide will assist the establishment of unified standards for conducting statistics in the public sector, and will increase its transparency and accountability.

## 16. LEPL Development Agency of Agricultural Cooperatives



Over the past few years, Georgia has been actively engaged in various projects of agricultural development. These projects have been aiming at the development of family farms, agriculture and other purposes that are promoting the socio-economic development of agriculture.

Within this framework, LEPL Development Agency of Agricultural Cooperatives was established under the Ministry of Agriculture. In accordance with the Law on Agricultural Cooperatives, the Agency is carrying out the following activities: granting and removing the status of an Agricultural Cooperative, carrying out state supportive measures for Agricultural Cooperatives, providing grants for Agricultural Cooperatives, creating a database of the activities of Agricultural Cooperatives, which will

gather information about the implemented, current or prospective activities of Agricultural Cooperatives, as well as about the harvest, types and number of provided services, and other data; preparing staff for agricultural cooperatives, raising the qualification of agricultural cooperative officials, and monitoring the activities of Agricultural Cooperatives.

In order to support open and transparent allocation and management of budget funds in the field of agriculture, and support its socio-economic development, it is important that the LEPL Development Agency of Agricultural Cooperatives engages in the OGP Georgia Forum and initiates commitments contributing to the openness of its activities.