Strategy for Increasing the Transparency and Integrity of the Ministry of Regional Development and Infrastructure of Georgia (2017-2020)

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Introduction

Democratic governance is the bases for the realization of human rights, including the right to development. This principle involves establishing transparent, accountable and participatory

governance, which is a prerequisite for sustainable development and prosperity.[1] For this purpose, one must establish a public administration system that is characterized by integrity and ensure transparency and accountability of public institutions. Unconditional adherence to these principles is also necessary for prevention of corruption, which has an extremely negative impact on democratic development, strengthening of the rule of law and protection of fundamental human rights and freedoms.[2]

An effective public administration system ensures that the benefits created by the state are enjoyed by the whole society, while corruption is a major obstacle to the implementation of these functions.[3] In recent years, the classic definition of corruption - use of power for personal gain[4] - was expanded to include broader concepts, such as integrity and accountability. This means that combating corruption requires setting up a system of integrity and accountability that allows for immediate response to corruption risks. Modern approaches to combating corruption focus on preventing undesirable result; accountability and integrity are instruments of good governance that allow governments to actively respond to possible risks. At the same time, good governance requires reaching broad social consensus on issues of most public interest as well as ways to solve them. The expansion of mechanisms for preventing corruption has significantly increased the number of parties involved in the process. Nowadays, in addition to the three branches of government, civil society, private sector and the media are all actively involved in preventing corruption.[5]

The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (hereinafter - the Association Agreement), which fully entered into force on July 1, 2016, stresses the importance of ensuring good governance and combating corruption as principles necessary for fulfilling the Association Agreement.[6] Combating and preventing corruption is included in the Association Agreement as a separate obligation that applies both to the public and private sectors. The Association Agreement also stresses the importance of successful implementation of the public administration and public service reform, which includes the improvement of transparency, integrity and accountability environment. By signing the Association Agreement, Georgia has reaffirmed its strong commitment to values shared by democratic countries, such as good governance, rule of law, protection of fundamental human rights and freedoms, and has committed to continue strengthening them in Georgia. Despite rather complex political and socio-economic problems, Georgia has managed to carry out fundamental reforms for institutionalizing democratic governance. Georgia has achieved remarkable progress in combating corruption, has implemented a number of important reforms, has modernized its financial institutions and public service and is harmonizing its legislation with that of the EU.

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[1] Human Rights Council Resolution 7/11 - The Role of Good Governance in the Promotion and Protection of Human Rights, March 27, 2008, Available: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_11.pdf
[2] United Nations Convention Against Corruption (2003), Available: http://www.unodc.org/unodc/en/treaties/CAC/index.html
[3] UN General Assembly Resolution 50/225 - Public Administration and Development, April 19, 1996, Available: http://www.un.org/documents/ga/res/50/ares50-225.htm
[4] What is Corruption, Transparency International, Available: http://www.transparency.org/what-is-corruption/
[5] Prevention: An Effective Tool to Reduce Corruption, p. 7-9, United Nations Office on Drugs and Crime (UNODC), Available: https://www.unodc.org/pdf/crime/gpacpublications/cicp2.pdf
[6] Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, Article 2 (4), Available: http://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02)

As a result of its anti-corruption reforms, Georgia is currently among countries with the lowest levels of corruption in Europe. The success of Georgia's anti-corruption policies has been recognized by a number of international reports and evaluations.

According to the World Justice Project's 2016 Rule of Law Index, which is one of the most important and widely acclaimed instruments measuring good governance,[7] Georgia ranked 34 of 113 countries and is a leader in the Eastern Europe and Central Asia region. [8] Two important factors in the index are absence of corruption and open governance.

In recent years, Georgia has made significant progress in combating corruption, primarily reflected in the elimination of bribery at the lower and middle levels of public service. This progress has been confirmed by Transparency International's Corruption Perceptions Index, according to which, Georgia has moved from the 124th place in 2003 to 48th place in 2015.[9] According to the 2016 Global Corruption Barometer, petty corruption is still low in Georgia.[10]

Georgia's progress over the last few years has also been recognized by the Fourth Round of Monitoring carried out in 2016 by the Anti-Corruption Network (CAN) of the Organization for Economic Co-Operation and Development (OECD).[11]

Georgia's National Anti-Corruption Strategy was first approved in 2005, and was later updated in 2010 and 2015.[12] The National Anti-Corruption Strategy and Action Plan are being developed and monitored by the Anti-Corruption Interagency Coordination Council,[13] which was set up in 2008.[14] In addition, since 2011, Georgia has been actively participating in the Open Government Partnership (OGP), which is an important initiative in terms of promoting transparent, effective and accountable governance. In 2014, Georgia was elected as a member of the OGP Steering Committee, and in 2016 Georgia became its co-

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[7] World Justice Project's Rule of Law Index Methodology, Available: http://worldjusticeproject.org/sites/default/files/media/rolindex2016_methodology.pdf
[8] World Justice Project's Rule of Law Index (2016), Available: http://worldjusticeproject.org/rule-of-law-index
[9] Transparency International Georgia, Corruption Perceptions Index 2015, Available: http://www.transparency.ge/node/5748
[10] Global Corruption Barometer (2016), Transparency International Georgia, Available: http://www.transparency.ge/post/barrometer2016
[11] Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan, Organisation for Economic Co-Operation and Development (OECD) Anti-Corruption Network for Eastern Europe and Central Asia, September 15, 2016, Paris, Available: https://www.oecd.org/corruption/anti-bribery/Georgia-Round-4-Monitoring-Report-ENG.pdf
[12] Decree of the President of Georgia on the Approval of the National Anti-Corruption Strategy, June 24, 2005, Available: http://bit.ly/2m5mPSB; Decree №376 of the President of Georgia on the Approval of the National Anti-Corruption Strategy, June 3, 2010, Available: https://matsne.gov.ge/ka/document/view/1017686; Government Resolution №170 on the Approval of the National Anti-Corruption Strategy and the National Anti-Corruption Strategy Implementation Action Plan for 2015-2016, April 20, 2015, Available: https://matsne.gov.ge/ka/document/view/2818704
[13] Law on Conflict of Interest and Corruption in Public Service, Article 12[1], Available: https://matsne.gov.ge/en/document/view/33550
[14] Decree of the President of Georgia on the Approval of the Composition and Statute of the Anti-Corruption Interagency Coordination Council, December 26, 2008, Available: https://matsne.gov.ge/ka/document/view/104218; Government Resolution №390 on the Approval of the Composition and Statute of the Anti-Corruption Interagency Coordination Council, December 30, 2013, Available: https://matsne.gov.ge/ka/document/view/2177485

chair country. Georgia has already completed two action plans within the framework of OGP, and approved its third action plan in 2016.[15]

In 2016, the Ministry of Regional Development and Infrastructure [16] joined the Open Government Georgia Forum and has taken commitments within the 2016-2017 Action Plan.[17] As a member of the Anti-Corruption Council, the Ministry will also be actively involved in developing the 2017-2018 Anti-Corruption Action Plan. Worth noting is that in recent years the Ministry has greatly improved practices of transparent and accountable governance in its system. More specifically, since 2013, the Ministry has significantly improved access to information, which is confirmed by civil society research.[18]

The Ministry is aware of the challenges in terms of integrity and accountability in its system and is committed to overcoming them and improving strengthening the principles of public administration. For this purpose, the Ministry has developed this policy document, which takes into account all of the important issues for the Ministry's system.

The strategy will be implementation in the Ministry as well as in its subordinate entities, including the Roads Department, LEPL Municipal Development Fund, LEPL Vano Khukhunaishvili Center for Effective Governance and Territorial Arrangement Reform, State Construction Company Ltd., United Water Supply Company of Georgia Ltd., and Solid Waste Management Company of Georgia Ltd.

In June 2016, the Institute for Development of Freedom of Information (IDFI) analyzed the transparency, integrity and accountability system of the Ministry of Regional Development and Infrastructure,[19] and identifies areas with potential for improvement. In order to address the challenges identified by IDFI's analysis, the Ministry developed this strategy and approved the 2017-2018 action plan. The latter contains specific measures for overcoming existing challenges.

Best practice in terms of improving integrity and transparency mechanisms involves developing strategies that are tailored to individual sectoral needs. This approach is used by EU member states, and European and Euro-Atlantic organizations. In 2004, the Public Administration Directorate of the Council the European Union of developed the Ethics Framework for the Public Sector, where includes the main principles of an integrity policy to be implemented by EU member states and their public institutions.[20] The fourth round monitoring report published in 2016 by OECD-CAN recommends developing separate anti-corruption measure for sectoral ministries.[21] The Ministry of Regional Development and Infrastructure is the first public institution in Georgia that is developing an individual strategy.

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[15] Government Resolution №557 on the Approval of the Open Government Partnership Georgia Action Plan for 2014-2015, September 18, 2014, Available: https://matsne.gov.ge/ka/document/view/2510377; Government Resolution №539 on the Approval of the Open Government Partnership Georgia Action Plan for 2016-2017, December 9, 2016, Available: https://matsne.gov.ge/ka/document/view/3456448
[16] Hereafter, the Ministry
[17] Government Resolution №539 on the Approval of the Open Government Partnership Georgia Action Plan for 2016-2017, Commitment # 11, December 9, 2016, Available: https://matsne.gov.ge/ka/document/view/3456448
[18] Access to Public Information in Georgia - 2010-2016, Institute for Development of Freedom of Information (IDFI), September, 28, 2016, Available: https://idfi.ge/en/georgia-foi-2010-2016
[19] The situation analysis was prepared by IDFI; it includes IDFI's vision of existing challenges and is an internal document for the Ministry.
[20] Main Features of an Ethics Framework for the Public Sector, Council of the European Union, November 22, 2004, Maastricht, Available: http://bit.ly/2msMp6T
[21] supra note 12, p. 23

The Principles and Process of Strategy Development

The strategy is based on the principles of rule of law, effective inter-agency communication, public participation, transparency and accountability. The Ministry of Regional Development and Infrastructure ensures that the strategy is publicly available and that civil society organizations and experts are involved in the processes of elaborating and updating the document as well as identifying its goals. The strategy has been designed to be in full compliance with the goals and objectives of the National Anti-Corruption Strategy. During the strategy development process, the Ministry took into account standards from international initiatives, such as Open Contracting Partnership, Global Partnership for Social Accountability, Transparency & Accountability Initiative, etc. This has allowed promotion of good governance through innovation and new technologies. Public discussion of the strategy during its development stage has helped the authors take into account a variety of issues.

The Ministry set up a working group for the purpose of elaborating the strategy and action plan. The group was headed by the Deputy Minister and consisted of representatives of the Ministry and its subordinate entities. Civil society was also involved with the working group. The process of developing the strategy and action plan involved 5 extended and 10 consultative meetings. Meetings were also held with representatives of private companies and infrastructure development associations.

The Ministry also considered international experience related to best practices of developing such documents and specific activities included in them.

Existing Challenges

A comprehensive analysis of the situation revealed areas with potential for improvement. Different structural units and subordinate entities of the Ministry face different challenges. Despite existing problems, the Ministry possessed strong mechanisms of ensuring transparency, accountability and integrity.

The overall challenge of the Ministry is that its standard of transparency and integrity is not uniform in all of its subordinate entities, which require introduction of new standards of good governance.

Analysis also revealed the need to improve the internal regulatory framework and to develop human resource capacity through improving whistleblower protection, ethics, access to public information and public participation.

Best practice for overcoming the above challenges is using e-government tools,[22] which include e-access to public information, e-participation modules (surveys, assessments, participation in decision-making, e-consultations, etc.) and using electronic means to deliver service and inform citizens of the Ministry's activities.

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[22] A Digital Georgia, E-Georgia Strategy and Action Plan 2014-2018, p. 11, LEPL Data Exchange Agency, Available: http://www.dea.gov.ge/uploads/eGeorgia%20Strategy.pdf; Government Resolution №427 on the Approval of Strategic Documents on Public Administration - Public Administration Reform Roadmap 2020 and Policy Planning System Reform Strategy 2015-2017, August 19, 2015, Available: https://matsne.gov.ge/ka/document/view/2953552

Finally, there is a need to improve intra and inter-agency cooperation, which is also a necessary precondition for the successful implementation of this strategy.

Strategy Goals and Objectives

The main goal of this Strategy is to improve the system of accountability, integrity and transparency of the Ministry of Regional Development and Infrastructure and its subordinate entities, to raise public trust towards the Ministry and to improve anti-corruption mechanisms.

Four objectives were identified for the purpose of achieving the above goals:

1. **Increasing transparency and public participation**
2. **Improving ethics and integrity mechanisms**
3. **Improving the system of human resource management**
4. **Improving the system of planning, monitoring and internal financial control**

Objectives

1. Increasing Transparency and Public Participation

For the purpose of increasing accountability and integrity, the Ministry of Regional Development and Infrastructure will work towards improving the mechanisms of transparency and public participation, which will increase public trust towards the Ministry and its subordinate entities and ensure effective delivery of public services.

The Ministry recognizes the importance of access to public information for creating a transparent environment and will work towards implementing standards of proactive disclosure of public information in its subordinate entities. The Ministry will also increase the capacity of public servants responsible for disclosing public information.

The Ministry will support **the production of public information in open data formats,** which will simplify its use, analysis and dissemination. The Ministry will also improve mechanisms for informing citizens about its planned and completed activities.

Mechanisms of public participation will be improved in the Ministry and its subordinate entities. The Ministry will cooperate with experts, representatives of civil society, international organizations and business associations, in order to improve public participation in its various areas of activity.

The Ministry will ensure public participation in the process of identifying its long-term priorities. The Ministry will create mechanisms of participation for civil society and specific interest groups that will be used when developing both policy and strategy documents.

Electronic mechanisms will also be developed for the purpose of achieving higher levels of transparency and participation. The e-mechanisms of requesting public information (e-request module and direct e-communication) that already exist in the Ministry will be extended to its subordinate entities. The websites of entities subordinate to the Ministry will be updated to include new functions aimed at improving communication and increasing citizen involvement.

2. Improving Ethics and Integrity Mechanisms

For the purpose of improving ethics and integrity mechanisms, the Ministry will work on:

- *Improving internal regulations on ethics; and*
- *Developing human resource capacity based on principles of ethics and integrity.*

Strict adherence to ethical norms by Ministry staff is important for creating a conscientious environment that prevents systemic misconduct. The Ministry and its subordinate entities will improve their internal regulations and inform their staff, in order to observe the ethics and integrity norms included in the Law on Public Service.

The revised Ministry statute will cover official communication, nepotism, impartiality, labor discipline and efficient public resource management. The Ministry will ensure that ethics principles are observed by its subordinate entities, so that their management mechanisms are brought fully in line with the regulations and guidelines of the LEPL Civil Service Bureau, including whistleblower protection and the Code of Ethics.

There are two main approaches to preventing corruption and integrity related misconduct - **situational prevention** and **social prevention**. The former implies strengthening institutional mechanisms and the latter is focused on raising public awareness.

In terms of situational prevention, the Ministry will work towards strengthening institutional mechanisms that minimize risks posed by loss of qualified personnel and change of management or legislation. Social prevention will primarily be employed in entities subordinate the Ministry, which, in addition to increasing the capacity of current staff, will train new employees on regulations related to ethics and conflict of interest.

Promoting whistleblower protection is essential for supporting the public service reform.[23] Whistleblower protection is also important as an effective citizen oversight mechanism. Whistleblowing, in a broad sense, is connected with high-quality, impartial and effective public service that is based on the principles of integrity and objectivity, as well as duties and responsibilities of specific public servants.[24] Within its competence, the Ministry will raise awareness on and introduce legal procedures related to whistleblower protection in its subordinate entities.

The Ministry will also introduce electronic mechanisms for whistleblowing in its subordinate entities, so that whistleblowers have easier time reporting legal violations and other misconduct.

3. Improving the System of Human Resource Management

In terms of improving human resource management, the Ministry will work towards implementing the Law on Public Service, which includes proper procedures of recruitment, dismissal, promotion, incentives and training. In addition, effort will be made to strengthen a merit-based personnel policy, ensure a fair environment for all, and observe the principles of efficiency and effectiveness.

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[23] According to Article 20^1 of the Law on Conflict of Interest and Corruption in the Public Service, whistleblowing is defined as disclosure made by a person to a relevant public institution regarding a possible violation of law or ethical standards by a public servant, which may damage public interest or the reputation of the respective public institution, Available: https://matsne.gov.ge/en/document/view/33550

[24] Whistleblower Protection Guidebook, p. 4, LEPL Civil Service Bureau, 2015, Available: http://csb.gov.ge/uploads/mkhileba.pdf

One of the main challenges in terms of personnel policy is a lack of uniformity in the standards of human resource management in different entities subordinate to the Ministry. It should be noted that the Ministry employs high standards of transparency and accountability. These standards will also be extended to entities subordinate to the Ministry.

The Ministry will work towards ensuring the sustainability of its human resources and preventing loss of qualified personnel. This will increase efficiency and help strengthen professional development opportunities.

4. Improving the System of Planning, Monitoring and Internal Financial Control

One of the important components of introducing good governance in the Ministry is promoting rational planning and effective monitoring of its activities, including infrastructure projects. To a large extent, the proper functioning of the project planning and monitoring system is also based on widespread use of the cost-effectiveness method.

Effort will be made to increase the human resource and institutional capacity of the Ministry and its subordinate entities during implementation. The Ministry will train its employees in project planning and monitoring.

Human recourse capacity will also be increased in optimal allocation of budget resources. In addition, guidelines will be made compatible with donor documents. Infrastructure projects constitute the majority of projects implemented by the Ministry and its subordinate entities. The Ministry will use the preliminary evaluation methodology included in the Investment Project Management Guidebook for improving its planning of infrastructure projects.[25]

Conclusion

Increasing public trust towards the Ministry of Regional Development and Infrastructure, as an entity implementing public administration, is important for ensuring democratic governance and sustainable development. This is especially important, considering the fact that the Ministry is one of the central public institutions that are part of the Georgian government's four-point plan.[26] It is by improving the mechanisms of transparency and accountability that good governance can be achieved.

The Strategy for Increasing the Transparency and Integrity of the Ministry and the Action Plan also contribute to the implementation of the obligations under the Association Agreement.[27] In particular, the implementation of the strategy will improve mechanisms of good governance and prevention of corruption, which is one of the cornerstones of the Association Agreement. Improving the system of integrity and transparency also contributes to the commitments undertaken by Georgia within the Open Government Partnership framework.

The specific activities that will be implemented in order to achieve the four objectives of this strategy are outlined in the Action Plan. The implementation of the Action Plan will be followed by the so-called

[25] Government Resolution №191 on the Approval of the Investment Project Management Guidebook, April 22, 2016, Available: https://matsne.gov.ge/ka/document/view/3265745

[26] Government Program 2016-2020, Government of Georgia, November 2016, Available: http://gov.ge/files/68_58446_288262_programa.pdf

[27] supra note 6

ex post evaluation. After monitoring the implementation of the Action Plan, the Ministry will revise its strategy and update with future challenges. The Ministry will also publish an action plan implementation report.

Developing mechanisms of transparency and accountability will help strengthen accountability in the Ministry and its subordinate entities, which is an essential precondition for preventing corruption.

Achieving the objectives included in this strategy will result in significant systemic improvements towards good governance in the Ministry:

- Standards of access to public information will improve in the Ministry and its subordinate entities, which will increase their transparency.
- Internal regulations on ethics will improve in the Ministry, and employee awareness about ethics norms will be raised, which will create an environment that is characterized by integrity.
- Strengthening public participation mechanisms will increase public trust towards the Ministry and the level of public participation in its activities.
- Improving the mechanisms of planning, monitoring and internal financial control will ensure efficient management of public resources.