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## **IDFI's Recommendations for Georgia's 2018-2020 Open Government Partnership (OGP) National Action Plan**

Considering Georgia's chairmanship of the Open Government Partnership (OGP), commitments undertaken in the National Action Plan (NAP) are of utmost importance. Unlike previous OGP National Action Plans, the new action plan should be different, ambitious and have a transformative effect. On the one hand, it is important for the commitments of the new action plan to set an example to other countries of the OGP community and, on the other hand, it is vital for the new OGP NAP commitments to have a significant effect on open government locally. Below, the Institute for Development of Freedom of Information (IDFI) presents recommendations for Georgia's 2018-2020 Open Government Action Plan.

### **I. Establishment of an Independent Anti-Corruption Agency**

The Fourth Round Monitoring [Report](#) of the OECD Istanbul Anti-Corruption Action Plan outlines that, similar to other countries, Georgia is still facing challenges related to existence of high-level corruption, which requires reform of the institutional and legal frameworks. There are significant challenges related to public institutions entrusted with the functions of fighting against corruption, including their significant lack of transparency, independence, political neutrality, access to information, accountability, material resources and specialized personnel.

**Within the scope of the 2018-2019 OGP National Action Plan, IDFI recommends the Government of Georgia initiate in the Parliament a legislative proposal on the creation of an Independent Anticorruption Agency.** The functions of the agency should include prevention and fight against corruption, elaboration of anticorruption policy, monitoring of asset declarations of public officials, whistleblower protection, monitoring of political party finances and raising awareness about corruption. In 2017, IDFI published a [policy brief](#) about an independent anticorruption agency, existing gaps, standards, international best practices and recommendations.

## II. Creating a Registry of Beneficial Owners for Companies Registered Abroad

Transparency of companies registered abroad represents an important challenge with regard to fight against corruption. Often, foreign and offshore companies hold significant assets in Georgia (real estate, capital, etc.) and participate in public procurement. The general public and state institutions are not aware of who actually stands behind these companies, which increases risks related to organized crime, corruption and conflict of interest.

In 2016, at the London Anti-Corruption Conference, the Government of the United Kingdom presented an initiative that aimed to increase transparency of beneficial owners of companies registered abroad. In particular, the UK adopted a new law, which makes it mandatory for existing foreign companies to disclose identities of their beneficial owners and for new companies to provide such information upon registration.

During the 2016 London Anti-Corruption Summit, Georgia presented a [Country Statement](#), where it committed to exploring the issue of creating a registry of beneficial owners of foreign companies. However, it is unknown whether the Government of Georgia made any efforts in this area. **Within the scope of the 2018-2019 OGP National Action Plan, IDFI recommends for Georgia to commit to establishing a registry of beneficial owners of foreign companies, which will be available online and in real time.**

## III. Elaboration of a Legal Framework on Public Participation in the Decision-making Process

In order to ensure transparent and accountable governance, it is necessary to have effective public participation tools on all levels. Currently, citizen engagement in the decision-making process of the executive branch represents a significant problem, which is caused by the lack of a legal framework that would ensure participation guarantees for the citizens.

**IDFI recommends creating a regulation that would make public participation obligatory during elaboration of government decrees, draft laws, strategic documents and other instruments used by the executive government.** This regulation (for example a Government Decree or law) would enable the public to provide feedback on official documents prepared by the Government before their adoption or initiation in the Parliament. The proposed regulation should also establish a feedback mechanism for the proposals of interested parties.

In addition, similar to its [concept](#) proposed in 2013, IDFI recommends publishing draft legal acts and strategic documents on the [ichange.gov.ge](#) portal, under the section of “electronic discussions”.

## IV. Improvement of Existing Standards of Proactive Disclosure of Public Information – Second Wave of Reform

On August 26, 2013, the Government of Georgia adopted a [Decree](#) on Electronic Request and Proactive Disclosure of Public Information, which defined the list and frequency of information that has to be proactively disclosed by Ministries and their subordinate agencies on their relevant webpages. The Decree improved the standard of access to information in Georgia; however, there are future steps that have to be taken in order to further improve the system.

**IDFI recommends reviewing the existing Government Decree and broadening the list of information that has to be disclosed proactively, bearing in mind greater detailing and improvement of disclosed**

information (detailed publication of composite information, disclosure of information relevant for public interest – the three FOI Requests Principle). In addition, IDFI recommends adding to the Decree an obligation to disclose the listed information in an open data format, on the data.gov.ge portal.

## V. Creating an Office of the State Minister on Public Administration and Innovations

In order to reform the public administration system, implement innovations in the public sector and advance e-governance in Georgia, it is important to improve coordination of the above-mentioned processes, which requires establishment of a specialized public institution on the highest level of government.

Existence of a specialized ministry in areas of public administration and innovations is a practice that is widely used in member states of the European Union. For example, such ministries exist in Hungary, [Estonia](#), Italy, [Sweden](#), Austria, Bulgaria, Croatia, Denmark, Poland, etc. The competences of these institutions include coherent development of the entire public administration system, as well as development of information technologies and innovations in the public sector and beyond.

**In the active reform period, IDFI recommends creating an Office of the State Minister for Public Administration and Innovations**, which, together with public administration and e-governance, will also nationally coordinate development of digital technologies, access to internet and, more generally, digital transformation of Georgia.

## VI. Transparency of the Meetings of the Cabinet of Ministers

As a rule, meetings of the Cabinet of Ministers are closed for the public in Georgia. In certain cases prescribed by the law and upon individual decisions of the Government, the meeting of the Cabinet can become public. Considering the fact that the Government of Georgia is a collective body, transparency of its meetings would set a high standard of democracy.

In order to improve transparency of the decision-making process and ensure establishment of higher standards of accountability, it is necessary to extend the obligation to conduct public hearings/meetings (as prescribed by the General Administrative Code of Georgia) to the Government and formulate detailed circumstances (in the law) when a meeting of the Cabinet can be closed for the public. Moreover, it is necessary to implement open government components, such as “Electronic Meetings of the Cabinet”, electronic commenting functions, publication of the agenda in advance and disclosure of the minutes of the meeting of the Cabinet.

## VII. Integrating Blockchain Systems in Public Procurement and Public Auction Processes

In the spring of 2016, the Public Registry of Georgia implemented blockchain technologies in real estate registry processes. As a result of a successful implementation of this project, a more transparent, safer and reliable system of real estate registration was created. This innovation was internationally recognized as a leading initiative in the area of public service delivery.

Using blockchain technologies is also possible in other public services and processes, for instance in public procurement and auctions. Using blockchain technology in public procurement can simplify many processes, such as aggregation and checking of qualification criteria and automatization of agreement

signing. This technology will also make it possible to store public procurement data in a more reliable and safer way. Similar to public procurement, using blockchain technologies is possible in public auctions, making them more transparent and safer. Therefore, **IDFI recommends integrating blockchain technologies in public procurement and public auction processes.**

### **VIII. Increasing Transparency of the Public Procurement System**

Law of Georgia on Public Procurement does not regulate issues related to subcontractors. The law does not define the concept of a subcontractor, and the high transparency standards of the law do not apply to the subcontracts concluded as a result of the implementation of public procurement. Consequently, a significant part of the information related to public procurement is left beyond the electronic portal - [procurement.gov.ge](http://procurement.gov.ge).

Lack of transparency of information on subcontractors creates the risks of corruption and collusion. Subcontracting may be misused to avoid conflict of interest, or for splitting contracts and artificially increasing prices by economic operators. The lack of availability of information on subcontractors makes it difficult to detect and respond to such actions.

Access to information about subcontractors is problematic in most countries in the world, which is associated with lack of political will, as well as lack of electronic public procurement systems. However, Georgia has the relevant experience, technical (unified electronic system of public procurement) and professional resource to ensure transparency of subcontractors without any significant challenge or expense.

**IDFI and Georgian Young Lawyers' Association (GYLA) recommend that the Government of Georgia and LEPL State Procurement Agency draft a bill defining the concept of a subcontractor in the Law on Public Procurement and other sub-legal acts regulating public procurement and extend the existing high standards of transparency on subcontracts.**

The Georgia public procurement system also does not ensure publication of full information related to contract implementation. In particular, there is no information about the quality of performed work or service. Under such circumstances, it is impossible for any third party to check contract implementation, which is essential for reducing the risks associated with quality.

To solve this problem, it is necessary to publish the following information related to contract implementation:

- Information on contract implementation milestones (where applicable) - milestone ID, name, deadline, implementation status, relevant documentation (delivery acts, bank transactions).
- Quality inspection reports and basic information related to the quality of the fulfilled work.
- Audit reports and basic information about audit documentation.

**IDFI and GYLA also recommend that the Government of Georgia and LEPL State Procurement Agency draft amendments to the Law on Public Procurement, which will extend the list of obligatory information to be published and will fully include the documentation and data produced during the contract implementation.**