

# GEORGIA

## Handbook on Transparency and Citizen Participation

Original:

*Handbook on Transparency and Citizen Participation in Georgia (English version)*

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Cover design and layout: RGOLI

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(2nd edition)

# Acknowledgements

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This *Handbook on Transparency and Citizen Participation in Georgia* was developed by the **Council of Europe within the regional project 'Strengthening institutional frameworks for local governance'** (2015-2017) in Armenia, Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Belarus. It was implemented as part of the Partnership for Good Governance 2015-2017 between the Council of Europe and the European Union.

The research work and writing of this updated edition was carried out by the Institute for Development of Freedom of Information (IDFI), a Georgian non-governmental organisation. The overall co-ordination was ensured by the Co-operation and External Relations Division of the Secretariat of the Congress of Local and Regional Authorities of the Council of Europe.

As of 2020, five handbooks have been produced with country-specific information for Albania, Armenia, Georgia, the Republic of Moldova and Ukraine. They aim to preserve and share the lessons learnt and best practices identified during the implementation of co-operation projects.

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# Foreword

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Governments can only function effectively if they enjoy the trust of their citizens. Local governments, municipalities and their civil servants have a crucial role in trust-building and participatory decision-making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regard to national governments, and represent the first interface between citizens and elected representatives. The professionalism and integrity of these governments and local administrations and their ability to function in a transparent, responsive and accountable manner will doubtlessly lead to enhanced, fair and equitable services to citizens. Local and regional elected representatives therefore must act as role models in the areas of public ethics, transparency and participatory decision-making.

However, we cannot ignore the fact that local authorities, as any public authority, are susceptible to corruption, which poses a major threat to the legitimacy of democratic institutions, as well as to the degree of trust that citizens place in their representatives. Threats such as the lack of transparency and poor public ethics are problems faced by all levels of government, including the local and regional levels. They affect citizens, governments and businesses alike and pose a threat to the universal access to basic services and local development. The fight against corruption needs to remain a long-term priority for local and regional governments and their associations. Concerted preventive action is paramount in order to **foster economic growth, improve living conditions and develop citizens' trust.**

As the decentralisation of power advances, the quality of local governance becomes even more decisive. Therefore, along with the introduction of criminal law provisions against corruption, it is essential to promote public ethics, transparency and participatory decision-making in order to reduce the risk of corruption and boost the citizen confidence in local and regional authorities. The Congress of Local and Regional Authorities of the Council of Europe took a firm step in the promotion of ethical governance by adopting, in 1999, the European Code of conduct for the political integrity of local and regional elected representatives. An advisory group revised this Code, which has been adopted as the European Code of Conduct for All Persons Involved in Local and Regional Governance in November 2018. The updated text addresses the new challenges, including new forms of communication, the impact of digital technology, the respect for the privacy of data, and enlarges the scope of its application to all actors involved in local and regional governance, and not just elected officials.

The Congress is committed to promote ethics and transparency at local and regional levels as an essential component of enhancing the quality of local and regional democracy, one of the key priorities for the period 2017-2020. **With that aim it set "Ethics and Transparency at local and regional level" as the theme for its two plenary sessions in 2016, and in October 2016 adopted a "Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels". One of the objectives of this roadmap is to deepen our understanding of the various risks and forms of corruption that exist at the local and regional levels. In that perspective the Congress recently adopted reports on the abuse of administrative resources in election campaigns, preventing corruption in public procurement, conflicts of interests, the protection of whistle-blowers, nepotism in the recruitment of staff, and transparency and open government.**

As a sign of its political determination to tackle these issues, the Congress has appointed two spokespersons on promoting public ethics and preventing corruption at the local and regional levels, Mr Andrew Dawson and Mr Andreas Galster. In 2017, during the 33rd session of the Congress, it also brought

to the fore the important perspective of young people and open government in the fight against corruption. This is a comprehensive and long-term approach to corruption prevention, including through the co-operation activities of the Congress of which this *Handbook* and those prepared for Armenia, Georgia, the Republic of Moldova and Ukraine are just a few examples, which sends a clear signal of our intention to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regard to public governance are changing. We are witnessing a growing mistrust toward public institutions and their representatives. In this regard, effective mechanisms for the implementation and compliance with standards of conduct are essential to renew the confidence in public administration. Preventing corruption, reducing its risks, and developing effective, accountable and transparent institutions at all levels are key components of just and inclusive societies.

With this in mind, this *Handbook on transparency and citizen participation in Georgia* is aimed at local authorities, mayors, local councillors and civil servants, to support them in their efforts to improve the quality of local governance in their villages, towns and cities. The *Handbook* will provide local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and national legislation, and providing case-law examples and best practices which it recommends be applied and promoted by all Georgian local authorities.



Andreas Kiefer  
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*of the Council of Europe*

## PURPOSE AND STRUCTURE OF THE HANDBOOK

Transparency and citizen participation are key tools in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as to ensure that their own needs and views are taken into account in the decision-making process.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

This *Handbook on Transparency and Citizen Participation in Georgia* aims to support local authorities in their efforts to improve the quality of local governance in line with the principles of the European Charter of Local Self-Government (ETS No. 122) and its Additional Protocol on the right to participate in the affairs of a local authority (CETS No. 207). It provides them with practical guidance on transparency and citizen participation, based on the Council of Europe principles and with reference to the general international standards and particular national legislation.

To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the *Handbook on Transparency and Citizen Participation in Georgia* includes country-specific information about anti-corruption legislation, transparency policies and citizen participation mechanisms. In particular, the user of this *Handbook* is provided with a straightforward look at relevant national legislation, a concise assessment of the most prevalent corruption risks, and a set of best practices to introduce and implement transparency and citizen participation mechanisms.

Furthermore, the implementation of the mechanisms included in this *Handbook* will help local authorities contribute to the **United Nations'** Sustainable Development Goals (SDGs)<sup>1</sup> of the 2030 Agenda for Sustainable Development,<sup>2</sup> namely the goals 5 (gender equality), 11 (sustainable cities and communities), 16 (peace, justice and strong institutions) and 17 (partnerships for the goals). In this regard, the implementation of open local government will be presented as a powerful mechanism for deepening the commitment to good governance in the context of sustainable development.

The *Handbook* is structured in four main chapters:

- Chapter 1 – Public Ethics and Accountability:  
This chapter highlights the importance and challenges of public ethics and accountability in Georgia. Moreover, it is emphasised how essential they are for an effective, transparent and participatory governance.
- Chapter 2 – Corruption Risks:  
This chapter introduces the most common corruption risks identified in Georgia and outlines relevant international anti-corruption standards, along with the national legal framework for each form of corruption. In addition, this chapter is supported with examples of case law related to each corruption risk.
- Chapter 3 – Transparency:  
This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. Each mechanism includes an introductory description and an outline of international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to enhance transparency.
- Chapter 4 – Citizen Participation:  
This chapter introduces five citizen participation mechanisms, which have been selected to represent the diversity of approaches to citizen participation. Following the same structure as in the previous chapter, it includes an introductory description for each mechanism and outlines relevant international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to foster and improve inclusive citizen participation.



## Chapter 1

# PUBLIC ETHICS AND ACCOUNTABILITY

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## 1.1. INTERNATIONAL CONTEXT

Public ethics and accountability are essential features of an effective local or regional authority. They refer to the culture, processes, structures and rules that ensure those in public office act in the wider public interest, rather than their own self-interest. They are an essential feature of good governance, and apply equally to organisations in the private and civil society sectors, as well as public authorities.

Ethics are the rules that define the conduct of public officials<sup>3</sup> in order to ensure that the public is treated fairly and with equality. Ethics can help officials make better decisions in the public interest, as well as help people evaluate the decisions taken on their behalf by public officials.

Public accountability ensures that officials are openly answerable for the decisions they are taking on behalf of the public.

In the absence of public ethics and accountability, corruption and malpractice are able to thrive. As outlined in the following section, corruption is damaging to individuals, society, the economy and government in a number of respects. Public ethics and accountability can help curb the worst excesses of power, and encourage more responsible and fairer decision making by local authorities.

Even where corruption is not endemic, the absence of public ethics and accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between both ethics and public accountability is complex, when done well, they can help to build and strengthen trust between the public and government.

On the other hand, public ethics and accountability can also play a much more positive role. They recognise that citizens and other stakeholders have much value to offer in decision making. They can help to ensure that their personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Finally, effective public ethics and accountability are also key elements of improving public services. This is based on the idea that public services that are more responsive and accountable to people - and benefit from their insights, ideas, energy and scrutiny - will work better for people.

Taken together, public ethics and accountability help to ensure that decision-making and resource allocation are fair, efficient and effective, which in turn helps to enable a flourishing democracy, economy and society. To this end, the Congress of Local and Regional Authorities of the Council of Europe adopted the European Code of Conduct for all Persons Involved in Local and Regional Governance,<sup>4</sup> encouraging local and regional authorities and their national associations to design appropriate educational programmes of integrity management and implement advisory services, to help their staff to identify and deal with potential ethical risk areas and conflicts of interest situations.

Transparency and citizen participation are important mechanisms for promoting public ethics and accountability in national and local government. A recent report for the European Committee of the Regions on **“Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern**

Partnership Countries” found that lack of transparency was the main vulnerability in all of the cases assessed.<sup>5</sup> This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

## 1.2. DOMESTIC CONTEXT

Increasing the involvement of municipalities in the policy-making process and strengthening public administration reform at the local level, which is one of the priorities on the EU-Georgia Association Agreement,<sup>6</sup> is essential for the effective implementation of transparency and integrity policies at the local level and positively affect the achievement of the Sustainable Development Goals (SDGs).

While discussing transparency and citizen engagement, it is also essential to underline the role of international institutions in fostering openness in national, regional and local governments. In this regard, Open Government Partnership (OGP) is a crucial international platform providing Georgia with the opportunity to elaborate and implement action plans to raise the level of efficiency and transparency in public administration in line with international standards. The countrywide successful implementation of open government policy is also a powerful tool to tackle some of the problems local democracy may face. Hence, national action plans on open government include commitments at local level and involve local governments in the implementation of OGP principles. The experience of Georgian municipalities will be presented in the chapters below and demonstrate the importance of international institutions to enhance transparency and citizen participation.

In recent years, local authorities have been involved in the activities of the Inter-Agency Coordination Council for Fight against Corruption and the Open Governance Inter-Agency Co-ordination Council and have undertaken relevant commitments to fulfil. The Anti-Corruption Action Plan for 2019-2020, among other commitments related to municipalities, includes raising public awareness about municipal services, increasing citizen involvement in municipal activities and strengthening transparency and integrity. The development of local strategies and action plans to increase transparency and integrity in municipalities is also a recommendation of the OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN). According to the Action Plan of the National Anti-Corruption Strategy of Georgia,<sup>7</sup> by 2020 it is planned to develop these documents in five municipalities.

In terms of regulating general rules of ethics and conduct, it is necessary to mention the decree of the Government of Georgia “On **Defining General Rules of Ethics and Conduct in Public Institutions**”,<sup>8</sup> which is also applied by municipal institutions in practice. The document aims to implement recognised public ethical principles and values in practice by creating an ethical environment in public institutions and ensuring professional ethical standards for civil servants.

Disciplinary liability issues for violating ethical norms are regulated by the Law of Georgia on Civil Service.<sup>9</sup> In addition, the mentioned normative act defines the conditions for hiring a professional civil servant, career management and dismissal, civil service management issues and others.

In order to establish a high ethical culture and standards at the local level, it is important to have a code of ethics and practical guidelines tailored to the special needs of local governments, which will provide specific examples and practical advice on issues such as prohibited gifts, conflict of interest, incompatibility and misuse of administrative resources. At the same time, intensive work is needed to raise the awareness of employees and officials on ethics issues. It is important to allocate appropriate staff within local self-government bodies that will be responsible for improving the ethical environment and

providing ethical advice to employees. It is necessary to ensure the development of the capacity of supervisory units and to elaborate grounds of disciplinary responsibility as well as a detailed procedure.

In terms of accountability, the results of the 2019 National Assessment of Georgian Municipalities (LSG Index) showed that the average score of municipalities on the 100% rating scale was 28%, which is 7% higher than the same indicator of 2017 (21%); however, it is still very low. In 2019, compared to 2017, the average result of city halls increased from 19% to 25%, while that of municipal councils increased from 24% to 31%. The overall rate of citizen participation and accountability in the self-government increased by 6% compared to the results of 2017, mainly at the expense of criteria such as improving the infrastructure for ensuring citizen participation in Municipal Council sessions; functioning of the Advisory Board (largely at the expense of large cities); and access to public information.<sup>10</sup> The executive and representative bodies of the municipalities have made some progress since 2017 in terms of transparency and accountability; however, radical steps need to be taken to achieve higher standards of accountability. The vast majority of municipalities in the budget planning process still do not provide programmes to **support citizen participation. Although the creation of the mayor's Council of Civil Advisors is a legal obligation, in 11 municipalities they have not yet been established and where they are designed, for the most part they still function poorly.** The issue of holding community meetings remains a challenge, as is the practice of holding public hearings on issues of high public importance, including budget-related issues. In 65% of the municipalities, none of these discussions have taken place in 2019.<sup>11</sup>

### 1.3. CODES OF ETHICS AND PROFESSIONAL CONDUCT

A code of conduct sets out specific standards of professional behaviour expected in a host of situations and provides public officials with guidance for handling them. In addition, codes of conduct bring in transparency and public accountability in governmental operations.

Codes of conduct are often confused with codes of ethics, which establish basic principles to which public servants must abide, such as integrity, selflessness and openness, among others. A code of conduct applies and implements the code of ethics to the particular circumstances of an institution.

Well-designed codes of conduct and ethics will help meet the growing expectations from the public, business leaders and civil society, and places an onus on governments to ensure high ethical standards amongst public officials and elected representatives. As such, they can support the development of trust between the public and government institutions and officials.

#### *International standards*

- The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct** for Public Officials<sup>12</sup> and the European Code of Conduct for all Persons Involved in Local and Regional Governance<sup>13</sup> are the reference texts for local and regional authorities in Europe for ensuring political integrity.
- The Committee of Ministers of the Council of Europe's **Guidelines on Public Ethics**<sup>14</sup> consolidate in one single document Council of Europe core principles, standards and recommendations in this field, covering all categories of public officials, be they elected, appointed or employed. They are complemented by the guide Practical steps to implementing public ethics in public organisations,<sup>15</sup> a living document which provides case studies and examples from Council of Europe member states.

- The OECD Recommendation on Public Integrity<sup>16</sup> shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.
- This Transparency International paper on Implementing Effective Ethics Standards in Government and the Civil Service<sup>17</sup> provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.

### *Domestic context*

The development of the public ethics system is closely linked with the civil service reform in Georgia, which began in 2014 after the adoption of the Civil Service Reform Concept. One of the key areas of the reform was the establishment of a code of ethics<sup>18</sup> for public employees, which was adopted by the Decree of the Government on 20 April 2017. The Code regulates a multitude of issues from political neutrality to accountability and gifting. Although the Code adequately addresses the challenges that exist in Georgian public institutions, there is low awareness about what it includes, hindering its impact.

Even though municipalities are guided by the Code adopted by the Government, there is no mandatory code of ethics tailored to the needs of municipalities.

### *Legislation*

In addition to some ethics provisions in the Law of Georgia on Public Service, the main regulation on ethics in Georgia is the Decree of the Government on Ethics and Rules of Conduct in a Public Institution. The law is applicable to public employees (both central and municipal), which includes career public servants, as well as contract-based employees. According to Article 85 of the Law on Civil Service, violation of the code of ethics is ground for disciplinary action – resulting in a warning, salary deduction and contract termination. At the same time, it is important for local authorities to adopt relevant codes of ethics tailored to their needs together with effective enforcement mechanisms.

### *Guidelines*

A Guideline to Ethics and Rules of Conduct of Public Employees was developed by the Civil Service Bureau of Georgia in 2015.<sup>19</sup> It contains practical information on cases and regulations related to ethics, including organisational culture, revolving door, nepotism, public procurement, disciplinary sanctions, public oversight, and whistle-blower protection. Although the document has not been adopted by an official legal act, it serves as a useful practical tool for employees. As the Code of ethics for public employees was adopted after the development of the Guideline, it is necessary to update the latter based on the novelties of the Code. Although the Guideline has not been updated since 2015, the commentary of the government decree on public ethics was adopted in 2018.<sup>20</sup>

### *Good practices*

A project implemented by Tianeti Municipality<sup>21</sup> has implemented several activities related to ethics, transparency and citizen engagement. A series of trainings were organised for civil servants, specifically **on ethical behaviour and governance. As a result, “two-way” communication with citizens is introduced** to encourage their participation in decision-making processes. A number of “post boxes” in all administrative units were installed, where citizens were encouraged to submit concerns and proposals to the mayor who takes these suggestions into consideration for future municipal actions. This resulted in the adoption of the code of ethics, which was developed in consultation with citizens from all 12 administrative units of the municipality and introduced in the everyday work of the local authority.

The Institute for Development of Freedom of Information (IDFI) together with relevant local authorities has implemented projects in Telavi and Lagodekhi,<sup>22</sup> Senaki,<sup>23</sup> Zugdidi<sup>24</sup> and Akhaltsikhe<sup>25</sup> municipalities with the financial support of the USAID Good Governance Initiative (GGI). Within the project framework, **situation analysis of transparency and integrity within relevant mayors' offices were conducted**, challenges were identified and individual strategies and action plans on transparency and integrity were developed. One of the directions of strategic documents is ethics and disciplinary proceedings. In this regard, the municipalities have set themselves the commitment of improving ethical standards, for which it is planned to develop and approve codes of ethics in 2020-2021, prepare guidelines on ethics, establish an advisory mechanism on ethics, implement awareness-raising activities and clearly define disciplinary proceedings. In the process of preparing the strategic documents, consultations were held with local civil society and students. The documents were approved by orders of the mayors of the respective municipalities and published on their websites.

## Chapter 2

# CORRUPTION RISKS

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In the absence of ethics and public accountability, corruption and malpractice are allowed to thrive, which undermines the foundations of a peaceful, prosperous and just society.

Corruption is a major challenge to democracy and the rule of law. It results in decisions and resource allocation that do not reflect the interests of the public and concentrates political power in the hands of the few. It in turn causes political leaders and institutions to lose legitimacy and public trust, which reduces their ability to govern.

Corruption also causes local and regional authorities to be inefficient and ineffective in exercising their duties. It results in decisions being made not on the basis of what is in the interests of society at large, but what is in the self-interests of the decision maker and their associates. It leads to public money being misspent, with contracts being awarded to inferior providers and budgets being misallocated. At its worst, it enables public officials to misappropriate money and resources, using their position to get rich to the cost of those they have a duty to serve.

Corruption can also result in public officials being appointed on the basis of favouritism rather than merit, meaning that local and regional authorities do not have access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces even more the efficiency and effectiveness of the administration.

Inefficient and ineffective organisations, staffed by individuals who gained their position on the basis of something other than merit, result in poor quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, it results in significant human costs, including poverty, deaths, illness, and restricted life chances.

Finally, corruption harms economic development. It leads to public money being directed to uncompetitive businesses, rather than those that offer more innovative or cheaper products and services. Uncompetitive markets, coupled with the negative impact of corruption on the quality of local public services and infrastructure, means that businesses do not have a solid foundation (of staff, security, investment, etc.) on which to build. In the end, this may cause private and international investors to avoid investing in an area.

## 2.1. BRIBERY

Bribery is the promise, offer, acceptance or solicitation of a personal advantage (e.g. gift, loan, reward, favour, etc.) in exchange for an unethical or illegal action. Bribery results in decisions not being taken in the public interest, which reduces public trust in institutions and leads to poor public services.

### *International standards*

The following international conventions and standards relate to bribery:

- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>26</sup> establishes legally binding standards to criminalise bribery of foreign public

officials in international business transactions. It is the first and only international anti-corruption instrument focused on the 'supply side' of the bribery transaction.

- The International Anti-Bribery Standard 37001<sup>27</sup> specifies a series of measures to help organisations prevent, detect and address bribery.
- The OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance<sup>28</sup> which supports the convention on combating bribery.

### *Domestic context*

In 2019, 63 instances of receiving/requesting a bribe were registered by law-enforcement agencies out of which 41% were successfully pursued, compared with 60 registered in 2018 out of which 30% were successfully pursued. As for offering/giving a bribe, 10 cases were registered and six were successfully pursued in 2016, compared with 14 registered and 10 successfully pursued in 2018.<sup>29</sup>

According to the Business Bribery Risk Index published by Trace International, in 2019 Georgia was ranked 27th among 200 countries, which determines business-related corruption risks. Out of four assessed areas, the worst situation was observed in Georgia in terms of preventing corruption risks. The total share of the population that had to pay a bribe in 12 months was 4% of public service users in 2016, while 12% of Georgians believed that corruption is among the top three problems in the country.<sup>30</sup>

Despite positive trends with regard to petty corruption, public opinion polls show that Georgian citizens consider complex forms of corruption a challenge. In particular, 63% of Georgian citizens think that abuse of power by public officials is common.<sup>31</sup> As for the reasons behind the abuse of power by public officials, Georgians believe that their goals include employing family members and relatives (92%), protecting **their own business (90%), embezzling public funds (81%), and getting bribes in exchange for "settling" problems (60%).**<sup>32</sup> In addition, 3% of respondents named corruption as the most important national problem in the country.<sup>33</sup>

### *Legislation*

Crimes related to public office are regulated by Chapter 39 of the Criminal Code of Georgia. According to Article 338 of the Code, taking/requesting a bribe in a monetary or other form is punishable by imprisonment of six to 15 years, depending on the gravity and circumstances of the crime. It is important to observe that in this article aggravating circumstances are considered to be the following: holding high public office, taking a large sum (over 10 000 Georgian Lari (GEL)), group intent, repetition of the offence, multiple instances, receiving a bribe through extortion or by an organised group.

According to Article 339 of the Criminal Code, the punishment for offering/giving a bribe may be a fine, community service, house arrest or imprisonment, also depending on aggravating circumstances such as facilitating another criminal act or committing a group act.

### *Example of case law*

In January 2020, officers of the Anti-corruption Agency under the State Security Service of Georgia detained H.N., head of one of the divisions of economy and property management services of Ninotsminda Municipality City Hall for bribe-taking in large quantities.

An investigation established that H.N. demanded GEL 30 000 as a bribe from two Georgian citizens in exchange for a right to use state-owned pasture located in Ninotsminda.

Article 338, paragraph II, sub-paragraph “B” of the Criminal Code of Georgia envisages from 7 to 11 years of imprisonment for the crime.<sup>34</sup>

## 2.2. CONFLICT OF INTEREST

A conflict of interest is where an individual is in a position to derive personal benefits from the actions or decisions they take in an official capacity. Conflicts of interest –either if they are actual, perceived or potential–<sup>35</sup> result in decisions that are, or are considered to be, unfair and self-interested. This reduces public trust in institutions and results in worse outcomes for the public.

### *International standards*

- The **Committee of Ministers of the Council of Europe’s** Recommendation on Codes of Conduct for Public Officials<sup>36</sup> and the European Code of Conduct for all Persons Involved in Local and Regional Governance<sup>37</sup> cover the general issues normally thought to be necessary for avoiding such conflicts.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Conflicts of interest** at local and regional level<sup>38</sup> propose a set of measures to mitigate the risks of conflict of interest and ensure that it is identified at an early stage.
- The OECD Guidelines for Managing Conflict of Interest in the Public Service<sup>39</sup> identify principles and standards for developing policies.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Making public procurement transparent** at local and regional levels<sup>40</sup> and the OECD Checklist for Enhancing Integrity in Public Procurement<sup>41</sup> provide guidance for enhancing transparency and for promoting integrity in procurement.

Conflict of interest is also covered by the following international standards and guidelines:

- The United Nations Convention against Corruption<sup>42</sup> is the only legally binding universal anti-corruption instrument.
- It is supported by this Technical Guide to the Convention.<sup>43</sup>
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**<sup>44</sup> aims to coordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**<sup>45</sup> defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**<sup>46</sup> aims to fight corruption involving officials from the EU or its Member States.
- The OECD Recommendation on Public Integrity<sup>47</sup> shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.

### *Domestic context*

Although conflict of interest represents a significant challenge for the Georgian integrity system, there is practically no administrative data related to such instances. Civil society organisations and investigative media often display cases of possible conflict of interest; however, law enforcement agencies fail to follow up on such cases.



Despite the fact that there are no public perception surveys related to conflict of interest in Georgia, there has been significant public interest to address these challenges. Specifically, the scope of Law of Georgia on Conflict of Interest and Corruption in Public Institutions has been expanded over the years and now includes various representatives of central, municipal, legislative, judicial and independent public agencies. Besides mayors, their deputies and heads of the structural units of city halls are also regarded as public officials according to the Local Self-Government Code,<sup>48</sup> which makes them subject to the regulations of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions.

In addition, in 2017 a monitoring mechanism of asset declarations was established.<sup>49</sup> The electronic system for randomly selecting declarations was developed and the first commission for monitoring of asset declarations was set up. The commission selects declarations of high officials to be monitored in addition to those selected randomly by a machine. The composition of the commission is determined by the head of the Civil Service Bureau. Civil Servants may not be members of the Commission. Annual monitoring of asset declarations of high-ranking officials has been conducted since 2017.<sup>50</sup> The monitoring results and respective reports are available on the website of the Civil Service Bureau of Georgia ([csb.gov.ge](http://csb.gov.ge)).

### *Legislation*

In Georgia there is a special Law on Conflict of Interest and Corruption in Public Institutions. The scope of the law extends to declaration of economic interests, as well as whistle-blower protection, receiving gifts, principles of public ethics, conflict of interests and corruption. Sanctions envisaged by this law are only administrative and include monetary fines (up to GEL 1 000) and disciplinary actions such as warning and contract termination. Conflict of interests of Georgian public officials is monitored by the Civil Service Bureau through a declaration monitoring system.

The Criminal Code of Georgia also provides for sanctions for accepting illegal gifts by a public official. According to Article 340 of the Code, such actions are punishable by a fine, community service, deprivation of the right to hold a position and/or imprisonment.

### *Example of case law*

In the recent years, there have been no judicial proceedings related to conflict of interest of public officials. Still, there are examples of alleged conflict of interest. Such reported cases include, for example, when a Member of the Parliament allegedly purchased (through an auction) real estate from a municipality that belongs to a district represented by him in the legislative body. In addition, cases reported by media and local civil society organisations include instances when extended family members (cousins, brothers, in-laws) of the municipal executives successfully participate in public procurement tenders announced by their subordinate agencies. In addition, civil society organisations have reported several alleged cases of conflict of interest in municipal public institutions. For example, an individual has entered into a contract with the City Hall and was appointed as the Head of the Infrastructure, Transport and Amenities Department before the expiration of the agreement. Although the person in question has received payment one day before the appointment to the above-mentioned position, his contract was still valid and there was a two-year guarantee for the rendered service.<sup>51</sup>

## 2.3. EMBEZZLEMENT

Embezzlement is the illegal appropriation of money, goods or other resources by an official to whom they have been entrusted. This results in the loss of public money, which reduces the capacity of authorities to act in the interests of the public, resulting in worse services and outcomes for people. It also undermines public trust in government.

### *International standards*

As one type of corruption, embezzlement is covered by the following international standards and guidelines:

- The United Nations Convention against Corruption<sup>52</sup> is the only legally binding universal anti-corruption instrument.
- It is supported by this Technical Guide to the Convention.<sup>53</sup>
- The **Council of Europe's Criminal Law Convention** on Corruption (ETS No. 173)<sup>54</sup> aims to coordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**<sup>55</sup> defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**<sup>56</sup> aims to fight corruption involving officials from the EU or its Member States.

### *Domestic context*

According to data gathered by the Institute for Development of Freedom of Information (IDFI), embezzlement was the most frequently committed financial crime in Georgia, with 2,155 cases recorded from 2004 to 2014.<sup>57</sup> During the mentioned period, the largest number of embezzlement cases was recorded in 2006, with 386 cases. Afterwards, this number decreased by approximately 50% and later increased in 2012 to 219 registered instances. Public perceptions related to embezzlement have not yet been researched in Georgia. In the statistics for 2019 published by the Ministry of Internal Affairs, no separate figures were shown for each type of financial crime, and the total number of registered crimes was 217.

In 2017, house arrest from 6 months to 2 years was introduced for embezzlement without aggravating circumstances in addition to a fine and imprisonment.

### *Legislation*

Georgian legislation defines embezzlement as misappropriation of someone else's property or property right if this property or property right was under their rightful possession. Aggravated circumstances for the embezzlement are present when the act is committed by a group, repeatedly, using official position, with large amounts, etc.

### *Example of case law*

In June 2020, officers of the Investigation Division of the Prosecutor's Office of the Autonomous Republic of Adjara detained M.K., Director of Orbita Ltd, for embezzlement of a large amount of budget funds.

The investigation established that the Department of Roads and Reclamation Systems Management of the Government of the Autonomous Republic of Adjara declared Orbita Ltd as the winner of the "Khikhadziri-Tkhilvana-Bako" road rehabilitation project in Khulo Municipality based on false bank

guarantees and a false document of advance payment presented by the company. On the basis of the false documents, the amount of GEL 188 000 was transferred to the bank account of Orbita Ltd, of which services of only GEL 43 535 were completed and the remaining amount was embezzled by the Director of Orbita Ltd, causing severe damage to the state budget.

The Director of Orbita Ltd was charged with embezzlement under Article 362 and Article 182 of the Criminal Code of Georgia, facing 7 to 11 years of imprisonment.<sup>58</sup>

## 2.4. FRAUD

Fraud is the use of deceit in order to gain an unfair or illegal advantage. Fraud erodes public trust in government and reduces the capacity of government to act. It often results in the loss of public money, which harms public services and the ability of governments to address the public's needs and aspirations.

### *International standards*

As one type of corruption, fraud is covered by the following international standards and guidelines:

- The United Nations Convention against Corruption<sup>59</sup> is the only legally binding universal anti-corruption instrument.
- It is supported by this Technical Guide to the Convention.<sup>60</sup>
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**<sup>61</sup> aims to coordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**<sup>62</sup> defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**<sup>63</sup> aims to fight corruption involving officials from the EU or its Member States.

### *Domestic context*

In 2014 there have been 974 registered cases of fraud, with charges brought against individuals in 639 cases. Registered cases of fraud decreased by 12.22% in 2015, with a total of 855 registered instances. Despite the decrease of registered cases in 2015, charges were put forward in only 477 cases.<sup>64</sup> In 2019, 1 846 cases of fraud were registered by the Ministry of Internal Affairs,<sup>65</sup> out of which 29% were successfully pursued. As it is clear, this type of crime has increased in recent years while the rate of its successful prosecution has decreased significantly.

There are no publicly known efforts undertaken by law enforcement agencies to prevent instances of fraud. In addition, the 2019-2020 National Anti-Corruption Action Plan does not include any activities related to combating fraud.

### *Legislation*

According to Article 180 of the Criminal Code of Georgia, fraud is defined as taking possession of property or such rights belonging to another, with a purpose of illegal appropriation. Criminal sanctions for fraud include a fine, community service and/or imprisonment, depending on the gravity of the case.

There are several law enforcement agencies that have jurisdiction over pursuing instances of fraud, including the Ministry of Interior (Investigative and criminal divisions), Investigation Service of the Ministry of Finance, and Office of the Prosecutor of Georgia.

### *Example of case law*

In February 2020, officers of the Anti-corruption Agency under the State Security Service of Georgia detained G.N., Director of Prizma Ltd, G.J. and I.G., superintendents of the same company, and R.K., expert of Audit-Phrevegi Ltd, for large-scale fraud by means of forged documents.

The investigation established that, in 2015, Tsageri Municipality Gamgeoba announced a tender to construct a sports complex, which Prizma Ltd won. An agreement was signed with the mentioned company amounting to GEL 2 714 143. During the construction of the sports complex, the Director of Prizma Ltd, with assistance of two superintendents, falsely noted as completed construction works valued at GEL 177 000 and thus fraudulently misappropriated state-owned money. The Director of Prizma Ltd was provided with assistance in fraud by the expert of Audit-Phrevegi Ltd, who noted non-existent works as fulfilled.

The charge implies large-scale fraud and issuing and using forged documents, thereby facing between 6 and 9 years of imprisonment.<sup>66</sup>

## 2.5. NEPOTISM

Nepotism is the exploitation of an official position to unfairly benefit a family member or friend (e.g. through giving a job or favour). Nepotism, and other forms of favouritism, results in local and regional authorities not having access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces the efficiency and effectiveness of the administration.

### *International standards*

As one type of corruption, nepotism is covered by the following international standards and guidelines:

- The United Nations Convention against Corruption<sup>67</sup> is the only legally binding universal anti-corruption instrument.
- It is supported by this Technical Guide to the Convention.<sup>68</sup>
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**<sup>69</sup> aims to coordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**<sup>70</sup> defines common international rules for effective remedies for persons affected by corruption.
- The **Congress of the Council of Europe's Resolution and Recommendation on Fighting nepotism** within local and regional authorities<sup>71</sup> sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- The **European Union's Convention against Corruption Involving Officials**<sup>72</sup> aims to fight corruption involving officials from the EU or its Member States.

### *Domestic context*

Nepotism is a significant challenge present in a majority of public institutions in Georgia. In most of the cases, public officials employ their relatives in various public institutions both at the central and local

levels. Civil society organisations often report specific cases where family and friends of high-level public officials are employed in public agencies. According to a 2019 survey, 59% of interviewed individuals think that officials in Georgia abuse power and 91% of those think that officials do it to give employment of relatives and friends.<sup>73</sup>

### *Legislation*

Currently there is no legislation that would explicitly prohibit or criminalise nepotism. Nevertheless, the necessity of fair hiring practices is stipulated in the Law on the Civil Service of Georgia<sup>74</sup> and can also be derived from the Code of Conduct regulation adopted by Government Decree in 2017.<sup>75</sup>

### *Example of case law*

Relatives of several members of the parliament were employed at the Georgian National Communications Commission (GNCC) after the members of the parliament assumed office.<sup>76</sup> Transparency International Georgia has identified around 70 cases of alleged nepotism in municipalities of Georgia – spouses, children and parents of local public officials were employed either inside the same public institution or in municipal agencies related to the public officials. For example, in 2017, the spouse of the Chairwoman of Oni Municipal Council was appointed as manager of club relations at N(N)LP Oni Sports School, a Non-Entrepreneurial (Non-Commercial) Legal Person under the governance of the municipality.<sup>77</sup>

## Chapter 3

# TRANSPARENCY

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### 3.1. ACCESS TO INFORMATION

Access to information is the legal right for citizens to request and receive information from public authorities. It is often enacted by Freedom of Information legislation.

Access to information supports accountability along with informed public participation in decisions, and is therefore fundamental for the effective functioning of democracies.

#### *International standards*

Access to information is a fundamental component of a number of the conventions and standards against corruption listed elsewhere in this handbook. It also underpins a number of key UN human rights documents. The following specifically relate to Access to Information:

- The **Council of Europe's Convention on Access to Official Documents (CETS No. 205)**<sup>78</sup> affirms an enforceable right to information.
- The **Congress of the Council of Europe's Resolution and Recommendation on Transparency and open government**<sup>79</sup> call upon local and regional authorities to increase the use of open data and records management by their administrations, and to publish these in comprehensive, accessible and reusable ways.
- The Aarhus Convention<sup>80</sup> grants rights, including access to information, in decisions concerning the environment.
- The OECD Recommendation of the Council on Open Government<sup>81</sup> identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.

#### *Domestic context*

Access to information is a fundamental human right recognised and guaranteed by state institutions and civil society organisations in Georgia. The right to access public information is enshrined both in Article 18 of the Constitution of Georgia<sup>82</sup> and in Chapter III of the General Administrative Code of Georgia. Access to information is one of the most important transparency tools that currently exist in Georgia; however, according to a public services satisfaction survey, only 2% of citizens had requested information from a public institution in 2017.<sup>83</sup>

While transparency and access to information are crucial towards promoting civic engagement and can contribute to the principles of good governance, the Open Government Partnership (OGP) Action Plan of Georgia 2018-2019 covers commitments ensuring unhindered citizen access to public information at local level.

Proactive disclosure of public information is one of the most significant commitments taken by Georgia within the framework of the OGP. The commitments taken by municipalities under OGP action plans, supporting the development of electronic mechanisms and ensuring publication of information in easy-to-use formats ensure raised transparency and accountability of local authorities. It is noteworthy that according to the National Assessment of Georgian Municipalities (LSG Index) in 2019, the overall results

of evaluation of Georgian municipalities were quite low. On the scale of 0% to 100%, the average score of all municipalities was only 28% (25% for city halls / municipal administrations and 31% for municipal councils).<sup>84</sup>

In this regard, for purpose of increasing openness and citizen access to public information at local level, the Tbilisi OGP Action Plan 2018-2020 includes an improvement of municipal electronic resources by creating an Open Data Portal of Tbilisi City Hall. Particularly, the Commitment 5 of the Tbilisi OGP Action Plan 2018-2020 aims at updating the format of the Tbilisi City Hall webpage, ensuring easier access to public data for citizens. In order to increase citizen involvement in decision-making processes at local level, the new version of the Tbilisi City Hall webpage offers a proactive publication portal and the electronic tool for subscribing to public information. The portal was prepared following the concept developed by IDFI in order to allow the publication of public sector data in an open and accessible format.

### *Legislation*

Article 18 of the Constitution of Georgia states that every citizen of Georgia has a right to access official documents stored in public institutions, if it does not contain secret, personal or commercial information. Chapter III of the General Administrative Code of Georgia outlines procedures for requesting information from a public agency (both central and municipal). According to the Code, public information has to be disclosed immediately or no later than 10 calendar days, in cases where it requires additional efforts. If the Freedom of Information (FOI) request is denied, individuals have a right to appeal the decision internally and afterwards to the court within 30 days of receiving the decision.

Since 2013, central and municipal public agencies have introduced regulations for proactive disclosure of public information, outlining the list of necessary information that has to be disclosed (on the webpage of the agency) and periodically renewed.

### *Guidelines*

Currently, there are no unified official guidelines on access to information in Georgia. Although websites of individual public agencies provide brief instructions on how to request public information, they mainly duplicate the requirements of the law. Nevertheless, such guidelines have been produced by civil society and they provide citizens with information on the nature of public information, request procedures, legal means of protecting the right and practical recommendations on access to information.<sup>85</sup> Some of the recommendations of the guidelines include:

- Adopting internal regulations for the management of public information;
- Installation of electronic management systems;
- Establishment of electronic systems enabling electronic request of public information;
- Analysis of information request trends; and,
- Increasing the role of Freedom of Information Officers in public institutions.

### *Good practices*

There are a number of public institutions that score consistently well in the rating of access to public information. For 10 years, the National Statistics Office of Georgia, the Office of the Public Defender and the State Inspector Service have been leading the rating with a 100% access to public information. According to a 2019 report, out of 284 public institutions, 25 agencies received a 100% score in the rating. As for performance of local self-government bodies, the City Halls of the Municipalities of Mtskheta and Martvili, as well as five Municipal Assemblies (Chokhatauri, Poti, Kareli, Khobi and Baghdati) have received the highest scores (100%) for the number of requests, completeness of the response and time compliance.

Compared to the previous year, Tbilisi Municipal Council improved its level of access to information in 2019 and it equalled 90.97%.<sup>86</sup>

In 2017, the National Assessment of Georgian Municipalities (LSG Index) was established by local civil society organisations to assess the transparency and accountability of all municipalities throughout the country. Based on the 2019 results of the LSG Index, the average performance of the municipalities on a 100% scale was 28%, which was seven percentage points higher than the same indicator in 2017 (21%). Batumi Municipality scored the highest percentage in 2019 with 61%, 11 percentage points higher than Rustavi Municipality (50%) in 2017, which had the highest score. Together with Batumi, the top five municipalities in the transparency ratings are Rustavi (57%), Lagodekhi (56%), Zugdidi (55%) and Tetrtskaro (52%) municipalities.<sup>87</sup>

Among several thematic areas, the LSG Index assesses the extent to which municipal bodies proactively publish public information on their websites. According to the 2019 evaluation, the overall score in this regard was 25%, which was six percentage points higher than the same indicator in 2017. Like the previous (2017) evaluation, municipalities scored the lowest in the lack of published information about administrative expenses and the legal entities of public and private law owned or managed by municipalities.<sup>88</sup>

## 3.2. OPEN DATA

Open data is the publication of data and information in a format that may be freely used, modified and shared. The OECD states that open data is «*a set of policies that promote transparency, accountability and value creation by making government data available to all*». By making data generated through the activities of public bodies available, government becomes more transparent and accountable to citizens. It also supports business growth and the development of services centred on citizens.

### *International standards*

Open data is a relatively new phenomenon without officially endorsed standards. However, a number of useful guidelines exist:

- The **Congress of the Council of Europe's Resolution and Recommendation on Open data for better public services**<sup>89</sup> explain its importance for improving local democracy.
- The **Congress of the Council of Europe's Resolution and Recommendation on Transparency and open government**<sup>90</sup> call upon local and regional authorities to increase the use of open data and records management by their administrations.
- The United Nations Guidelines on Open Government Data for Citizen Engagement<sup>91</sup> introduce policy guidelines and good practice recommendations.
- This World Bank Toolkit<sup>92</sup> starts from the basics, through to planning and implement, as well as avoiding common pitfalls.
- The Five Star Open Data Deployment Scheme<sup>93</sup> provides five steps to fully opening data, explaining the costs and benefits of each.
- The International Open Data Charter<sup>94</sup> sets out six principles for open, timely and interoperable government data.
- The OECD Recommendation of the Council on Open Government<sup>95</sup> identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.



### *Domestic context*

In Georgia, open data is generated by both public institutions and civil society organisations. Nevertheless, production of open data is still fragmented, with limited institutions and data available in a machine-readable format. The Government of Georgia has taken some steps towards ensuring the availability of open data, for example, the establishment of an open data portal ([data.gov.ge](https://data.gov.ge)). The portal contains the information of various public institutions in an open data format, including on procurement, public spending, and policy. The portal is administered by a subordinate agency of the Ministry of Justice, the Legal Entity under Public Law (LEPL) Digital Governance Agency (previously, Data Exchange Agency). However, since public institutions are not obligated to place databases owned by them on the portal, only 173 datasets have been published over the past four years.

Open data has started to enable civil society and citizens to use the information for analytical purposes and to create innovative tools for broader public use; however, both the availability and awareness of open data is low, which limits its utilization.

Over the past two years, municipalities have taken several steps to improve open data collection and publication practices. In particular, Akhaltsikhe and Kutaisi municipalities elaborated and adopted Open Data Strategies for 2019-2020,<sup>96</sup> while other six municipalities (Gori, Lagodekhi, Ozurgeti, Senaki, Telavi and Zugdidi) plan to improve open data management practices by analysing the existing challenges, elaborating data management internal procedures and increasing qualification of public servants responsible for data processing and publication.<sup>97</sup>

### *Legislation*

Currently, there is no national or local legislation regarding the production and use of open data in Georgia. The new draft law on Freedom of Information, which is planned to be initiated in the Parliament of Georgia, is expected to introduce the definition of open data, based on which public institutions will be obligated to publish open data owned by them in open and machine-readable formats. The absence of common standards, however, does not mean that local authorities need a legal framework to start producing information in an open data format. Developing information in the form of open data is encouraged for greater transparency of local public institutions and does not rely on regulations.

### *Guidelines*

There are no guidelines on open data that are produced by Georgian public institutions. Nevertheless, civil society organisations are working actively to increase availability of open data. In 2016, research on Access to Open Data in Georgia<sup>98</sup> examined the availability and quality of open data in Georgia. In particular, it is recommended for local public institutions to:

- Shape and manage databases and registries in a way that will enable their publication on the open data portal;
- Ensure open data publication of databases related to education, social affairs, zoning, recreation, transportation, etc.;
- Increase the availability of open data through the national open data portal; and,
- Develop an internal manual and training module about the production and publication of open data.

A 2018 analysis of the access to and use of open data demonstrated that scarcity of available open public data is mostly attributed to the lack of a relevant legal framework, and the absence of common standards and effective enforcement mechanisms.<sup>99</sup>

### *Good practices*

Development and launching of the open data portal – data.gov.ge – can be regarded as a national best practice, since it provides available open data in a unified space and encourages both central and local public institutions to contribute to the portal. Due to the limited number of datasets published on the portal, its impact is still limited. Some of the information available on municipal web portals is available in open data formats (mostly in Excel); however, it is vital to ensure that all information that is proactively published by the municipality is available in an open data form. In addition, it would be useful to conduct an initial assessment of what information can be made available for open data publication.

Another best practice comes from the civil society. In particular, in 2018 Georgia's Open Data Lab was set up by IDFI, a Tbilisi-based organisation. Users can find data, basic visualisation tools, and resources to analyse data, design data visualizations, conduct research, and develop web and mobile applications on the platform. In particular, the website contains processed datasets accumulated from more than 180 central and local public institutions. As of now, the platform consists of about 1 260 datasets, which are available in open and machine-readable formats (mainly in Excel and CSV). Datasets cover public policy issues such as: public administration and administrative expenses, local government, economy, finance, healthcare, crime statistics, social issues, education, environment, transport and society. Besides exploring data, users are able to:

- Analyse and process data of their interest;
- Make simple visualizations;
- Download datasets in open formats;
- Share data on social networks and websites;
- Create new apps.

The platform is actively used by journalists, researchers, activists, students and open data specialists.

## 3.3. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICT OF INTEREST

Disclosure is the act of routinely publishing certain information, sometimes required by law. It can support anti-corruption measures by requiring the routine publication of assets and declarations of conflict of interest, for example. It can also be for more positive reasons, such as to support policy making, or by ensuring that the public are better informed and therefore able to contribute more effectively.

### *International standards*

Disclosure is an important element in the conventions and standards against corruption listed elsewhere in this handbook. Of particular relevance are:

- The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct for Public Officials**<sup>100</sup> and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**<sup>101</sup> require private interests to be declared, made public and monitored.
- The **Congress of the Council of Europe's Resolution and Recommendation on Conflicts of interest at local and regional level**<sup>102</sup> call on local and regional authorities to promote the proactive disclosure of declarations of interest prior to public request and to ensure that disclosure policies are accompanied by appropriate measures for resolving conflicts of interest.
- The **OECD's Managing Conflict of Interest in Public Service: Guidelines and Country Experiences**<sup>103</sup> provides practical instruments for modernising conflict-of-interest policies.
- The **OECD's Asset Declarations for Public Officials: A Tool to Prevent Corruption**<sup>104</sup> identifies the key elements of asset declaration systems.

### *Domestic context*

Disclosure of asset declarations is a mechanism that is important for the prevention of corruption and conflict of interests in Georgia. A wide range of public officials submit asset declarations, which are publicly available on a specially designed website ([declaration.gov.ge](http://declaration.gov.ge)). Citizens are able to look at the financial interests of public officials and provide public oversight on potential cases of conflict.

### *Legislation*

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions requires public officials to submit asset declarations annually and for certain positions even after leaving public office. The list of the officials required to submit asset declarations is provided in the law itself.<sup>105</sup>

In 2017, a system for monitoring asset declarations was established through a government decree and includes the following monitoring mechanisms:

1. Random selection of declarations by a machine;
2. **Selection of “high risk” declarations** by a special committee (which also includes non-governmental organisations) established annually under the Civil Service Bureau; and,
3. Written request including reasonable doubt about a possible infraction.

According to the abovementioned Law of Georgia on Conflict of Interest and Corruption in Public Institutions, failure to submit an official's asset declaration within the time limit set by the Law is subject to a fine in the amount of GEL 1 000. In the case of providing incorrect information in the declaration, an official will be subject to a fine in the amount 20% of their official salary, but not less than GEL 500. In the case of minor violation regarding the declaration, an official will be given a warning.

The Civil Service Bureau of Georgia is the agency that is entrusted with the administration, publication and monitoring of asset declarations.

### *Guidelines*

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions itself provides instructions on how public officials must submit the declarations. Within two months of assuming office, public officials are required to submit asset declarations to the Civil Service Bureau, including assets and financial interests belonging to the officials and the members of their families – real estate, movable assets exceeding GEL 10 000, stocks, bank deposits, cash exceeding GEL 4 000, contractual receivables exceeding GEL 3 000 and obligations exceeding GEL 5 000, gifts exceeding GEL 500 GEL, and contracts with subjects exceeding GEL 10 000. Officials must re-submit declarations annually and one year after leaving office. The instructions for the monitoring of asset declarations are also adopted by Government Decree and outline detailed procedures on how to monitor the declarations. In addition, the Civil Service Bureau has published comparative research on the Rules of Submitting Asset Declarations in the United States and Georgia.<sup>106</sup>

### *Good practices*

Although there are no specific best practices related to the disclosure of assets of public officials in any particular institution or municipality, the establishment of the monitoring system should certainly be regarded as one. Within the scope of the Open Government Partnership 2014-2015 National Action Plan,<sup>107</sup> the Civil Service Bureau of Georgia has developed a system for monitoring the asset declarations of public officials. Although asset declarations have been publicly available for a number of years, there was no mechanism that would enable the monitoring of their accuracy. The new mechanism guarantees broad oversight over the declarations and also gives civil society organisations and the public a possibility

to participate in the process.<sup>108</sup> The results of the first monitoring became public at the end of 2017; successive annual monitoring results have been published since then. It can be observed that public officials started filling out the declaration forms with greater caution. The monitoring mechanism is an innovative reform and this experience is new for a multitude of countries.

Despite the fact that asset declarations can be retrieved through a specific online portal, it would be a sign of greater accountability and transparency to publish the declarations of municipal public official on the webpages of the City Hall and Municipal Council – this would provide the public with an opportunity to directly look into the asset declarations of public officials of the local self-government.

### 3.4. EXTERNAL AUDIT

External audit is the regular, independent scrutiny of accounts and financial information to ensure that public money is used appropriately and effectively. External audits are undertaken in accordance with the relevant laws and rules of the country to support those external to government to hold it to account. External audit can also look beyond finances to assessing the performance of government against its own objectives, or in providing programmes and services.

#### *International standards*

- The International Public Sector Accounting Standards<sup>109</sup> focus on the accounting, auditing, and financial reporting needs of national, regional, and local governments, related governmental agencies, and the constituencies they serve.
- The International Standards of Supreme Audit Institutions<sup>110</sup> website contains a complete collection of professional standards and best practice guidelines for public sector auditors.
- A number of the conventions and standards for combatting corruption include provisions and clauses relating to external audit.

#### *Domestic context*

The State Audit Office of Georgia (SAO) is an institutionally independent public agency that provides oversight over the use of public funds and the efficiency of the work of public institutions. The functional and financial independence of the SAO are guaranteed under the law and it provides significant input in ensuring transparency, accountability and integrity of public institutions.

#### *Legislation*

The functional and financial independence of the SAO is guaranteed under Article 69 of the Constitution of Georgia. In addition, the work of the SAO is regulated by the Organic Law of Georgia on the State Audit Office, which sets the mandate, responsibility and organisational structure of the SAO.<sup>111</sup> Apart from examining the spending of public funds vis-à-vis all public institutions (including municipal public institutions) and state-owned enterprises in Georgia, the mandate of the SAO also includes the monitoring of political party financing. The SAO is only entrusted with an oversight function and does not have a mandate to put forward any sanctions. Nevertheless, under Article 24<sup>1</sup> of the Law on the State Audit Office, it has an obligation to immediately report possible criminal activity discovered during the audit process.

### *Guidelines*

The SAO regularly publishes best practice audit guidelines for public institutions, as well as for the conducting the audit itself. Generally, the guidelines produced by SAO do not have a legally binding nature, but there are some regulations that are enshrined in the Decree of the General Auditor – for example, the Code of Ethics of State Audit Office Auditors.<sup>112</sup> In addition, SAO publishes guidelines on the development of budgets, which can be useful for local self-governments during the preparation of the municipal budget.<sup>113</sup> Recommendations of the above-mentioned guideline cover results-based budgeting, how to link specific targets to the budget, formula-funding, and agency-level budgetary performance incentives. These tools and recommendations can be used to improve the structure and quality of municipal budgets, which will later have a positive effect during audits conducted by SAO.

### *Good practices*

Since the SAO is the only external institution that monitors the work and spending of central and local public institutions, it makes significant effort to guarantee citizen participation, transparency and accountability. The best practice established by the SAO in the recent years is the launch of an online portal for citizens and institutions ([budgetmonitor.ge](http://budgetmonitor.ge)). The online platform provides interactive information about the reports of the SAO and provides citizens with the opportunity to utilize the data produced by the institution. In addition, the portal provides different modules for public participation, both in the process of oversight and during the planning of the budget. The impact of this tool is large in the area of cultivating public involvement in the budgetary process. It can serve as a good tool to compare incomes and expenditures of various municipalities of Georgia, providing citizens and municipal officials/employees with opportunities to reflect on the budget, financial standing and efficiency of the local self-government unit.

## 3.5. PUBLIC PROCUREMENT

Public procurement refers to the process by which public authorities, including local authorities, purchase work, goods or services.

As public procurement is an essential part of public service provision for local and regional authorities, efficient procurement is key to good governance. However, as procurement involves a large proportion of public expenditure and the transfer of public resources to the private sector or non-profit organisations, it is particularly vulnerable to corruption.<sup>114</sup>

Therefore, public authorities have to increase transparency over public procurement, with the help of new technologies, and allow greater scrutiny. Open contracting systems will also create a preventive effect, because officials will refrain from manipulating the contracting process if they know that the details will be revealed.

### *International standards*

- The **Congress of the Council of Europe's Resolution and Recommendation on Making public procurement transparent** at local and regional levels<sup>115</sup> and the OECD Checklist for Enhancing Integrity in Public Procurement<sup>116</sup> provide guidance for enhancing transparency and promoting integrity in procurement.
- The OECD Recommendation of the Council on Public Procurement<sup>117</sup> promotes a strategic and holistic use of public procurement systems across all levels of government and state-owned

enterprises. The online Public Procurement Toolbox<sup>118</sup> provides policy tools, specific country examples as well as indicators to measure any public procurement system.

- The WTO Agreement on Government Procurement<sup>119</sup> establishes rules requiring that open, fair and transparent conditions of competition be ensured in government procurement.
- The EU Directive on Public Procurement<sup>120</sup> ensures the best value for money for public purchases **and guarantees the respect of the EU's principles of transparency and competition.**
- The UNCITRAL Model Law on Public Procurement<sup>121</sup> is a legal template available to national governments seeking to introduce or reform public procurement legislation for their internal market.
- The European Bank for Reconstruction and Development (ERBD) Guide to Electronic Procurement Reform<sup>122</sup> provides information on and assistance with designing and implementing national eProcurement reforms.

### *Domestic context*

The State Procurement Agency of Georgia (SPA) is an independent legal entity of public law (LEPL) that provides oversight to ensure the legitimacy of government procurement procedures. The Chairperson of the Agency is appointed and dismissed by the Prime Minister of Georgia, while the Government of Georgia approves the structure of the Agency and provides state oversight over its activities.<sup>123</sup> **Public Procurement at the municipal level is conducted by relevant Mayors' Offices using the unified electronic procurement system ([tenders.procurement.gov.ge](https://tenders.procurement.gov.ge)).** **The Mayors' Offices are responsible to submit reports on the execution of annual procurement plans to the Municipal Councils.**

### *Legislation*

Along with the Constitution of Georgia, the main legislative acts in the area of public procurement in Georgia are the Law on Public Procurement,<sup>124</sup> the Statute of the SPA approved by the Government of Georgia,<sup>125</sup> as well as international treaties and agreements. Procurement procedures determined by the World Bank, United Nations, EBRD, Asian Development Bank, KfW Development Bank and European Investment Bank may be applied when conducting public procurement, if these organisations are involved in the legal relations related to implementation of the procurement. The Law of Georgia on Public Procurement determines the general legal, organisational and economic principles for conducting public procurement. The SPA ensures rational expenditure of funds designated for state procurement, promotes healthy competition, ensures a fair and non-discriminatory approach to participants and takes relevant steps for the publicity of procurement information, inter alia through running and maintaining the Unified Electronic System of State Procurement. According to the legislation, dispute over the procurement process is heard by an independent and impartial Dispute Resolution Council, the purpose of which is to resolve cases in a timely, efficient and fair manner. The Council is not a subsidiary of any state entity and/or official.<sup>126</sup> **At local level, the Mayors' Offices adopt annual procurement plans, which are later approved by the SPA. Public procurement is conducted by the local financial-municipal departments via the online procurement system. The Mayors' Offices are responsible to provide Municipal Councils with the report on the implementation of Procurement Plans on an annual basis.**<sup>127</sup>

### *Guidelines*

In order to facilitate the process of online procurement in Georgia, the SPA has developed an E-Procurement User Manual.<sup>128</sup> The manual includes the step-by-step approach of the Unified Electronic System of State Procurement directed at suppliers, procuring entities as well as any other interested party at the central and local levels. The Guide for Donor Funds on Electronic Procurement Procedure (DEP) published by the SPA provides a detailed walk-through in the process of donor procurement.<sup>129</sup> Moreover, the Guideline to Ethics and Rules of Conduct of Public Employees have been developed by the Civil

Service Bureau of Georgia in 2018 containing practical information on various areas of public policy, including public procurement, disciplinary sanctions, public oversight, and whistle-blower protection.<sup>130</sup>

A number of guiding documents on public procurement have also been produced by CSOs in Georgia. The Guidelines on COVID-19 Related Public Procurement provide relevant stakeholders at the central and local levels with practical information on the steps to be taken in the process of conducting procurement aimed at responding to the challenges caused by the pandemic.<sup>131</sup> Moreover, the methodology of evaluating the level of public procurement transparency, the Transparent Public Procurement Rating (TPPR), includes indicators for evaluating the level of procurement transparency.<sup>132</sup> According to the TPPR, the public procurement system in Georgia is evaluated with a score of 86.14%.<sup>133</sup> Based on the evaluation, the central and local authorities can identify existing gaps and take relevant steps to tackle them. The National Assessment of Georgian Municipalities (LSG Index) includes the aspect of proactive publication of the information on public procurement, thus providing municipalities with guidance on the relevant information to be published on their websites.<sup>134</sup>

### *Good practices*

Electronic innovations for more transparency and efficiency of public procurement was included as one of the main commitments of the Open Government Partnership (OGP) Action Plan of Georgia 2018-2019.<sup>135</sup> To this end, the SPA developed a webpage with a new visualisation of the database generated by the Open Contracting Data Standard (OCDS) and created an API to access OCDS-based databases ([opendata.spa.ge](http://opendata.spa.ge)). However, the data published in open contracting standards is not renewed and covers the year 2019 only. A number of public procurement commitments are also included in municipal action plans. The Akhaltsikhe Transparency and Integrity Strategy aims at increasing the number of suppliers participating in public procurement at the local level.<sup>136</sup> The strategy was adopted in line with the OGP Action Plan of Georgia. A similar action plan was adopted by Telavi Municipality, which aims at reducing the number of direct procurements and strengthening the mechanisms of monitoring the execution of contracts. Senaki Municipality is committed to adopting a similar action plan.<sup>137</sup>

## Chapter 4

# CITIZEN PARTICIPATION

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### 4.1. COMPLAINTS MECHANISMS

Complaints mechanisms allow citizens to provide feedback to public authorities on the standards of services they receive. They provide an important accountability mechanism which allow civil servants and elected officials to identify where public services are being delivered ineffectively or inefficiently. When such mechanisms deal with complaints quickly, they can help to create the conditions for increased trust. If used proactively, complaints mechanisms can also help governments to identify new ideas and increase citizen participation.

#### *International standards*

There are no specific international standards for complaints mechanisms relating to public services. However, there are a number of civil society guidelines and handbooks which are helpful. See for example:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)<sup>138</sup> provides an international legal guarantee to this right, including the establishment of mechanisms and procedures for dealing with and responding to citizen complaints and suggestions.
- The Transparency **International's Reference Guide on Complaints Mechanisms**<sup>139</sup> sets out guiding principles and good practices for establishing and implementing complaint mechanisms which provide safe channels for citizens to alert a public or private institution about any corruption risks or incidences.
- The **Danish Refugee Council's** handbook<sup>140</sup> describes how to setup and manage a complaints mechanism.
- The World Vision overview of the tools and mechanisms used by development agencies to receive complaints.<sup>141</sup>

#### *Domestic context*

Service delivery is one of the integral parts of the ongoing public administration reform in Georgia. It aims to increase the quality and access to public services both at the central and local levels. However, as the 2019 results of the National Assessment of Georgian Municipalities (LSG Index) demonstrated, one-third of Georgian municipalities do not proactively provide information to their citizens about municipal services through their websites. In addition, there are no established complaints mechanisms that would allow citizens to provide feedback on the quality of public services. All citizens have the possibility to communicate with public agencies, but the complaints mechanism is not institutionalised. An established channel for complaints will have a large influence on the quality of public services and on the accountability of the institution itself. It will also serve as an opportunity for mayors to tailor the services of the municipal institution to the needs of the citizens.

Supporting the development of public services that are more responsive and accountable to people at national as well as at local level is another key element of OGP. Commitments envisaged under the OGP Action Plans enable citizens to access information and engage in the monitoring of the process and outcomes of the activities of central and local authorities. Supporting the development of modern



technologies and electronic mechanisms for higher civic engagement and public scrutiny undoubtedly serve as important tools for strengthening openness and efficiency in the public administration.

### *Legislation*

There is no national or internal regulation on complaints mechanisms for services provided by public institutions; however, it is not necessary to have national legislation in order to establish simple and sustainable tools that would provide citizens with a possibility to provide their feedback on the delivery of public services. If an effective mechanism is developed in the municipality, it can have a positive effect on the level and quality of public participation, since citizens will have a chance to serve as agents of change and their desire to participate in local decision-making might increase.

### *Guidelines*

No guidelines exist on providing feedback to citizens about the complaints voiced regarding public services; nevertheless, there is a growing necessity to establish a mechanism that provides a systemic approach for measuring public attitudes on municipal services. In this regard, the first steps taken by the municipality should include analysis of existing municipal services, establishment of internal regulations that provide for a possibility of a systematic overview and evaluation of service delivery and establishment of transparent and efficient communication tools, including electronic tools for engaging with citizens about their attitudes towards local service delivery quality. It is important to consider the development of a periodic survey system that would allow local public officials to analyse the service delivery system through public opinion research. Similar studies may include the Citizen Satisfaction Survey with Public Services in Georgia, commissioned by UNDP Georgia in 2015 and 2017. Moreover, collaborating with partner municipalities can be a useful tool in bringing together resources and providing a comparative analysis of what mechanisms are working in which municipality.

The necessity of important reforms in this direction is demonstrated by the newly adopted Decentralisation Strategy 2020-2025, which among other activities envisages the development of common minimal standards for municipal services.<sup>142</sup>

### *Good practices*

**The 'Voice of the Customer', a project implemented by the Public Service Hall of Georgia,**<sup>143</sup> allows citizens to express their feedback through feedback machines installed in the Public Service Halls of Georgia. Furthermore, the customer has a possibility to put forward a complaint using a special hotline. After receiving the feedback, special personnel of the agency review it and take necessary steps to resolve the problem and report back to the citizen about the complaint.

The OGP Action Plan of Georgia for 2016-2017 covered several commitments directed at enhancing citizen engagement in local municipality decision-making processes. Considering the lack of responsiveness of local government institutions, under the OGP Action Plan of Georgia for 2016-2017, Ozurgeti Municipal Council committed to ensure live streaming of the Council meetings and the publication of the full video files of the meetings on the webpage of the municipality.<sup>144</sup> In addition, citizens can post comments and questions through the livestream.<sup>145</sup> Lastly, it can be also mentioned that Ozurgeti Municipality has e-petitions portal which is actively used by the citizens.<sup>146</sup>

Promoting citizen involvement in decision-making processes at local level has also been one of the priorities of the OGP Georgia Action Plan 2018-2019. Particularly, Zugdidi Municipality took the obligation to further develop electronic engagement and citizen co-operation tools by elaborating the electronic portal "Your Idea to the Zugdidi Mayor". The platform ([idea.municipal.gov.ge](http://idea.municipal.gov.ge)) integrates almost all

municipalities of Georgia and enables citizens to communicate and propose specific ideas and initiatives to the mayor.

## 4.2. OPEN POLICY MAKING

Open policy making is a broad term describing policy development which is transparent and participatory. It describes a way of making policy and decisions which draw on the latest analytical tools and are interactive in nature. There is no one-way to do open policy making: different policy decisions will need different approaches.

### *International standards*

Although there are no specific open policy making standards, the following provide a useful starting point:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)<sup>147</sup> provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation.
- The **Council of Europe's Guidelines for civil participation in political decision making**<sup>148</sup> sets out standards for engaging with citizens and civil society.
- The **Congress of the Council of Europe's Resolution and Recommendation on Transparency and open government**<sup>149</sup> provide standards and mechanisms to enhance transparency and promote the involvement and participation of citizens in the local public life.
- The OECD Recommendation on Open Government<sup>150</sup> helps to design and implement successful open government strategies and initiatives.
- The **OECD's Guiding Principles**<sup>151</sup> support the development of a culture of openness.
- The **OECD's Focus on Citizens: Public Engagement for Better Policy and Services**<sup>152</sup> explores how to put open policy making into practice.
- The **OECD's Observatory of Public Sector Innovation**<sup>153</sup> lists useful toolkits and resources.
- The Open Government Partnerships Guide<sup>154</sup> and Toolbox<sup>155</sup> provide an extensive range of support.
- Both Australia<sup>156</sup> and the UK<sup>157</sup> have both produced useful toolkits.

### *Domestic context*

Policymaking at the central and local levels in Georgia has elements of transparency and citizen openness, but openness is often restricted to specific policy processes. Since a uniform legal framework for open policymaking is absent in Georgia; the quality of transparency and citizen participation is different in all central and local public institutions. Transparent, participatory and collaborative policymaking is critically important for the successful implementation of the Public Administration Reform and represents one of its key pillars. In recent years, open policymaking has demonstrated significant success, since both citizens and representatives of public institutions saw the benefit of co-creating policies together. In this regard, the Open Government Partnership (OGP) had a transformative effect on central and local policymaking approaches. After the OGP National Action Plans were successfully co-created by civil society and public institutions, it became evident that the experience could be applied to the local level, paving way to the OGP Sub-National Initiative, which aims to bring open government to the local level. In order to strengthen the co-creation process and secure implementation of the ambitious commitments throughout the country, the elaboration of OGP commitments at national as well as local level involves the active participation of local and civil actors.

## *Legislation*

At the central level, there is no legal framework for ensuring open policy-making; however, the Local Self-Government Code of Georgia has a specific chapter, which sets guarantees forms of open policymaking.<sup>158</sup> In particular, municipal public agencies and public officials are required to guarantee organisational and technical capacities that will enable citizens to meet with representatives of the municipality, to attend public hearings of municipal assemblies and to participate in the decision-making process. Some of the forms of open policymaking stipulated in the law are the establishment of the Council of Civil Advisors, participation in the formation of budgetary priorities, and access to information.

The Local Self-Government Code of Georgia envisages forms of open policymaking as a general assembly of a settlement; a petition; a Council of Civil Advisors; participation in the sessions of the municipal council and the sessions of its commission; hearing reports on the work performed by the Mayor of the municipality and by a member of the municipal council.<sup>159</sup>

## *Guidelines*

The experience accumulated in OGP has demonstrated that there is a need for establishing a permanent open government mechanism inside the municipalities of Georgia. Taking into account the success that was achieved in piloting the first OGP Sub-National Action Plan in 2017, it became evident that open government initiatives work successfully not only on the central level but also on the local level. Therefore, it is recommended to use the existing citizen engagement infrastructure, such as the Council of Civil Advisors, to start developing local OGP action plans. These action plans are created with a strong emphasis on developing measurable commitments aimed at increasing transparency and accountability, preventing corruption, improving public service delivery and promoting innovation in local self-government.

## *Good practices*

In 2016, the Tbilisi City Hall became a member of the OGP Subnational Government Pilot Program and developed its first OGP Subnational Action plan for the first time.<sup>160</sup> Besides elaborating specific commitments for improving municipal services and increasing public participation in the decision-making process, the action plan was developed with broad participation of civil society organisations and the draft action plan was made available for public scrutiny.<sup>161</sup> The working group established within the Tbilisi City Hall united representatives of the municipality and civil society organisations. In the process of developing commitments for the action plan, civil society had a possibility to suggest potential actions for the action plan. After developing the initial concept, civil society and City Hall representatives actively collaborated on developing the contents of the action plan. The 2017 Tbilisi Action Plan includes five commitments aimed at improving citizen engagement in the decision-making process, as well as transparency and accountability of local public institutions.

The Supreme Council of Adjara Autonomous Republic (SCA) decided to institutionalise the implementation of open government principles and adopted amendments to the Rules of Procedure, thereby establishing a permanent Open Governance Council within the SCA.<sup>162</sup> In order to support activities of the Council, a SCA Consultative Group was established, composed of representatives of local civil society organisations, and multilateral and international organisations working in Adjara.<sup>163</sup> The Consultative Group presented the proposals and recommendations to the Open Governance Council of the SCA during the elaboration of the OGP Action Plan and is supporting the Open Governance Council in the efficient implementation of the commitments. In August 2020, the **SCA's OGP Action Plan** was adopted, consisting of 15 commitments, which aims to improve citizen engagement, access to information and accountability at the regional level.

## 4.3. PARTICIPATORY BUDGETING

Participatory budgeting began in Porto Alegre, Brazil in the late 1980s and has spread worldwide. It provides a way for community members to have a direct say in how public money should be spent. It creates opportunities for engaging, educating, and empowering citizens. It can also promote transparency, which in turn can help reduce inefficiency and corruption.

### *International standards*

Although there are no specific standards for implementing participatory budgeting, the following provide a useful starting point:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)<sup>164</sup> provides an international legal guarantee to this right, including the implementation of measures that would facilitate its exercise.
- The **Congress of the Council of Europe's Resolution on Gender budgeting**<sup>165</sup> recommends introducing gender budgeting methods in the annual budgets at local and regional levels.
- The OECD Policy Brief No. 22<sup>166</sup> provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.
- The **World Bank's book *Participatory Budgeting***<sup>167</sup> provides an overview of the underlying principles, analyses current practice and includes seven in-depth case studies.
- The **UN Habitat's 72 Frequently Asked Questions about Participatory Budgeting**<sup>168</sup> explores how to implement participatory budgeting.
- The World Atlas of Participatory Budgeting<sup>169</sup> represents the widest compilation of data on the situation of these processes worldwide.
- The **UK's Participatory Budgeting Unit has a useful list of resources and toolkits**.<sup>170</sup>
- The Subnational Open Budget Survey Questionnaire<sup>171</sup> of the International Budget Partnership sets out a range of metrics for measuring the openness of local government budgets.
- The Principles of Public Participation in Fiscal Policy<sup>172</sup> of the Global Initiative for Fiscal Transparency.

### *Domestic context*

Participatory budgeting is a vital tool in ensuring citizen engagement in the decision-making process; however, the executive, legislative and local branches of the government need to take an additional step in improving the legislative framework and infrastructure. Limited mechanisms for participatory budgeting currently exist in Georgia. Although the public is duly informed about the budgetary process and draft documents are systematically uploaded on the webpages of the Ministry of Finance and certain local authorities, participatory budgeting is still on a tokenistic level – meaning that the public is informed but does not have any power to influence decision-making. Meaningful participatory budgeting will increase the communication between the local government and the population and will also positively affect public trust in local institutions. Having a possibility to plan the local budget will cultivate public scrutiny in the spending process, which will improve public oversight and accountability in the municipality.

As a positive development, several municipalities have started the development of participatory budgeting practices over the past years. As of 2019, nine municipalities are implementing participatory budgeting: Batumi, Ozurgeti, Zugdidi, Mestia, Tskaltubo, Kutaisi, Akhaltsikhe, Gori and Signaghi.<sup>173</sup> Based on the initiative, a particular amount of money is considered in the municipal budget for public initiatives. Citizens and initiative groups are enabled to submit their ideas to a particular city hall and a special committee decides which initiative to support.

Recognising participation as an important tool to ensure transparency in budgeting processes, **Government of Georgia's OGP Action Plans consider the development of institutional mechanisms** necessary for participatory budgeting schemes. The main objective of the commitments envisaged under both 2016-2017 and 2018-2019 Action Plans is to ensure a better management of public resources through a higher citizen engagement in the budgetary processes. Open government principles commit to raise budget transparency by increasing civil participation through technology and innovation.

### *Legislation*

Currently, there is no legislation that expressly regulates participatory budgeting in Georgia. The current system does not make it expressly possible to allocate a certain percentage of the budget according to the priorities identified by the citizens. However, a few municipalities committed themselves to develop such a participatory mechanism and allocated a particular amount of financial resources in their annual budgets. Also, the participation of the public in the budgetary process is made possible by public meetings/discussions during the elaboration of the budget. According to Article 91 of the Local Self-Government Code, the Mayor submits the draft budget to the City Assembly before 15 November of each year. The City Assembly then has a 5-day period to release the draft budget for public discussion and then returns the document to the City Mayor with remarks before 25 November. The Mayor returns the revised budget to the City Assembly before December 10, which is then adopted before the end of the year. According to the legislation, there are two windows, from November 20 to November 25 and then from December 10 to December 31 to publicly discuss and adopt the budget.<sup>174</sup> Budgetary consultations and the above-mentioned timeframe are a useful opportunity for mayors to understand local needs and reflect the priorities of the citizens in the municipal budget annually.

### *Guidelines*

**With the support of development partners, the Ministry of Finance has developed a Citizen's Guide for state budgets.** The guide includes important information about the budgetary process, main fiscal procedures in Georgia, state budget priorities, expenditures, and a midterm fiscal policy document **overview. Although it has not been adopted through a legal act, the Citizen's Guide is an important source of information about the budgetary process in Georgia.**<sup>175</sup>

In addition, with the support of the German Agency for International Co-operation (GIZ) a detailed guidebook on participatory budgeting was prepared, which outlines the essence, aim, historical background, international best practices, basic models, regulatory frameworks, as well as the ways, means and tools for participatory budgeting.<sup>176</sup> The guidebook can be useful not only for local authorities, but also for other stakeholders to effectively contribute to the participatory budgeting process.

Since public attitudes and priorities vary among different groups and are also different from year to year, it is important to establish a sustainable, efficient and inclusive consultation process that has a foundation in internal regulations of the municipal public institutions.

### *Good practices*

The Municipality of Zugdidi has successfully implemented a participatory budgeting programme since 2020. GEL 1 million was allocated from the municipal budget for civic initiatives. The total amount is equally divided among five administrative districts (GEL 200 000 for each) and citizens are allowed to submit their ideas. As of 2020, a total of 39 civic ideas were submitted by citizens for further consideration before approval.

The commitments of the OGP Action Plan of Georgia for 2016-2017 aimed to respond to the challenge of effective management of public resources. Transparency and openness of public resource allocation was part of the commitments of local governments to promote the development of participatory budgeting schemes. To specifically increase public access to information and promote civic engagement in budgetary planning processes, four municipalities in Georgia introduced electronic mechanisms for budget planning: Akhaltsikhe Municipality City Hall, Batumi Municipality City Hall, Kutaisi Municipality City Hall, and Ozurgeti Municipal Council.

Furthermore, the participatory budgeting mechanism “Plan Your Municipal Budget” has been developed within the framework of the action plan and new websites for Kutaisi ([kutaisi.gov.ge](http://kutaisi.gov.ge)) and Akhaltsikhe Municipalities ([akhaltsikhe.gov.ge](http://akhaltsikhe.gov.ge)). By 2020, local residents in various municipalities of Georgia where participatory budgeting mechanism is introduced took part in selection process of 126 projects financed by the municipalities.<sup>177</sup>

The OGP Action Plan of Georgia for 2018-2019 extends the responsibility to improve citizen engagement in budgetary processes to Batumi Municipality through the introduction of an institutional mechanism of participatory budgeting. The obligation also considers approval of the relevant legislative framework for the introduction of an institutional mechanism of participatory budgeting and raising the awareness of citizens concerning participation mechanisms. The participatory budgeting mechanism of Batumi ([idea.batumi.ge](http://idea.batumi.ge)) is actively used by its residents.<sup>178</sup>

## 4.4. PUBLIC CONSULTATION

Public consultation is a formal, often legally required, process for citizens and other stakeholders to give their views at key stages of the policy process. It can be both online and offline, or a mixture of both. Its main goals are to improve efficiency, transparency and public involvement in important decisions. Done in a timely and effective way, public consultation will increase the quality of decision making, improve compliance, reduce enforcement costs and support greater public trust in decision-making.

### *International standards*

Although there are no specific standards for implementing public consultations, the following provide a useful starting point:

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)<sup>179</sup> provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as consultative processes and local referendums.
- The OECD Background Document on Public Consultation<sup>180</sup> defines consultation and provides a summary of consultation tools.
- The **Council of Europe’s** Guidelines for civil participation in political decision making<sup>181</sup> set out the different types of civil participation in decision making.
- The **Committee of Ministers of the Council of Europe’s Recommendation on the participation of citizens in local public life.**<sup>182</sup>
- The OECD Recommendation of the Council on Open Government<sup>183</sup> supports initiatives for designing and delivering public policies and services, in an open and inclusive manner.

### *Domestic context*

Public consultations on policy documents are fragmented and take place in upon individual discretion of public agencies. Draft laws and policy documents are often distributed to representatives of civil society and different stakeholders; however, the quality and quantity varies even within the same public agencies. Public consultations are a vital tool for increasing transparency and accountability of public institutions and for improving civic oversight of public policy.

In municipalities, public consultations take place more often than on the central level; however, they do not have an institutionalised form and are not expressly supported by legislation. Consultations often take place regarding the elaboration of the local budget, implementation of a municipal infrastructural projects, etc.

The Open Government Partnership in Georgia aims at extending commitments in the Action Plans to local governments in order to ensure that each citizen can benefit from open government principles. For the purposes of promoting civic engagement and local government accountability mechanisms, responsibilities under the OGP Action Plans support public awareness raising and effective information delivery concerning decision-making processes at local level. With the aim to promote citizen engagement in the activities of the local authorities, the development of online mechanisms and modern technologies to simplify access to public information is implemented under the framework of the OGP Action Plans.

### *Legislation*

There is no national or local legislation that would outline procedural requirements and principles for conducting public consultations. Nevertheless, there is a specific instance, which set requirements for conducting public consultations in cases of developing Environmental Impact Assessments (EIA). According to Article 32 of the Georgian Law on the Environmental Impact Code, public consultations are a mandatory component for conducting EIA and its findings should be annexed to the report.<sup>184</sup> On the local level, the Local Self-Government Code mentions the Council of Civil Advisors, a consultative commission composed of at least 10 representatives of local civil society, businesses and residents of the local municipality. The composition of the Council of Civil Advisors is determined by the mayor and should include at least one third female candidates. The mayor of the municipality is formally required to submit to the Council of Civil Advisors spatial planning documents, municipal budget draft, projects of important legal acts related to infrastructural development and social affairs.

### *Guidelines*

There are no national guidelines with regard to conducting public consultations in Georgia; however, the Policy Planning System Reform Strategy lists public consultations as one of the criteria for evaluating the quality of policy documents.<sup>185</sup>

On 20 December 2019, the Government of Georgia adopted the Decree on the Rules of Development, Monitoring and Evaluation of Public Policy Documents.<sup>186</sup> Among other topics, the decree includes the description of public policy development stages and the regulations to ensure the participation of relevant stakeholders in the process. The rules will come into force as from 1 January 2021. Even though the document is meant to positively change the situation, it does not reflect high standards of citizen participation. Namely, the rules only make it mandatory to ensure citizen participation in policy development after the draft of a policy document is elaborated, while at relatively early stages the citizen engagement only has a voluntary character.



It is important to activate existing tools of citizen participation and public consultations in the municipalities of Georgia. In particular, engaging the public in policy consultations can be enabled through the empowerment of the Council of Civil Advisors, increasing awareness about the petitions mechanism, increasing access to public information and through encouraging citizens to participate in the hearings of Municipal Councils. It is recommended to adopt an internal vision/regulation that will be aimed at evaluating existing levels and practices of public consultations and developing specific commitments that will address the identified challenges.

### *Good practices*

The Council of Civil Advisors of the Batumi Municipal Council has been very successful in fostering public participation in the work of the municipality. The Council of Advisors is composed of 19 members that are selected through broad consultations with civil society and local businesses. The work of the Council is facilitated by the Civil Society Institute, a non-governmental organisation active in the area of citizen engagement. The legal basis for the establishment of the Council is stipulated in Rules of Procedure of the Batumi Municipal Council. The Council has a broad mandate and works on increasing citizen engagement in the local policy process, informing the public about the work of the municipality, and reviewing initiatives, legal acts and policy proposals. The establishment and operation of the above-mentioned Council is a good practice, since unlike other Councils it is very active and regularly holds meetings to discuss a wide range of issues. This Council is quite advanced and has its own webpage that has participatory elements and provides extensive information about its work ([marte.ge/sabcho](http://marte.ge/sabcho)).

It is also noteworthy that Batumi and Rustavi Municipalities had the highest scores (87% and 72%, respectively) in the 2019 National Assessment of Georgian Municipalities (LSG Index) ranking in terms of development of participatory mechanism tools envisaged under the Local Self-Government Code of Georgia.<sup>187</sup>

Raising the awareness of self-governance body activities and promoting civil participation in the decision-making process has been one of the goals of the OGP Action Plan of Georgia for 2018-2019. In this context, the development of modern civic engagement technologies has been promoted at municipal level. Particularly, Zugdidi Municipal Council undertook the responsibility to generate the multifunctional **mobile application "I.Gov.Zugdidi", which includes informative and feedback mechanisms**. The application ensures wide access to the activities of the Municipal Council, such as: municipal schedule, regular sessions and agenda; dates of various cultural or sport events; tentative start and end dates of infrastructural projects, etc. The application also enables citizens to obtain information about the municipal healthcare and social welfare programmes, their details and a list of documents to be submitted to the City Hall for that purpose.

Promotion of citizen engagement and access to information has been upheld under the Tbilisi OGP Action Plan 2018-2020, including the responsibility of the Tbilisi City Hall to elaborate an integrated web application for citizens ([ms.gov.ge](http://ms.gov.ge)). The application, also available for other Georgian municipalities, ensures online access to the most demanded interconnected services within the City Hall system, with the aim to establish a single-window system within the scope of these services. The application will also be available in the form of the mobile app. The format will take into account the mechanism of reporting by citizens concerning the process of the implementation of various services. This information will be subject to periodic analysis, and the results will be publicly available and directed to improving existing services.



## 4.5. PUBLIC PETITIONS

Public petitions enable citizens to raise issues with public authorities. The number of signatures collected can indicate the level of support for the issues being raised. They aim either to raise the profile of the issue, or also to demand that specific actions are taken. Petitions are often inspired by civil society activity, but they are increasingly submitted through official, often online, platforms whereby petitions with a defined number of signatures will receive an official response.

### *International standards*

- The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)<sup>188</sup> provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as public petitions.
- The **OECD's Promise and Problems of e-Democracy**<sup>189</sup> provides information on the value and challenges of establishing an online petitioning platform.

### *Domestic context*

Currently, petitions are not systematically submitted to central and local public institutions in Georgia. Nevertheless, citizens actively use unofficial online petitions instruments (e.g. [manifest.ge](http://manifest.ge)) to mobilise. A legal framework exists for submitting petitions to local authorities; however, this mechanism is not actively used by the local population, due to low awareness of the legislation and lack of supporting electronic infrastructure.

The development and improvement of e-participation and electronic petitioning standards in Georgia has been one of the key priorities of Georgia's OGP Action Plans. Related commitments contribute to the development of modern technologies in order to implement and operate petitioning systems within public institutions both at central and local levels.

### *Legislation*

Articles 85 and 86 of the Local Self-Government Code also provide for a possibility to submit petitions to the Municipal Council. The petition can be submitted by at least 1% (or less than 1% if determined by the Municipal Council) of the municipal population or the general assembly of a settlement. After receiving the petition, a special commission makes a decision on submitting it to the Municipal Council, preparing a resolution of the Municipal Council or consider it unreasonable to discuss the petition. The petitions can be submitted in the form of a draft decree, general principles and outlines of a decree and a request for discussion of the issue during the Municipal Council plenary meeting. Relevant procedures on submitting the petitions are prescribed in detail by the Local Self-Government Code. The Code also states that it is possible to submit electronic petitions; however, further procedures related to e-petitions are subject to the individual regulation of the Municipal Councils.<sup>190</sup>

### *Guidelines*

Due to the fact that both national and local petitions represent a novelty in the area of citizen engagement, there are limited national or local guidelines that would provide citizens with additional information on how to submit them. The practice related to the use of municipal petitions has been reviewed by civil society organisations.<sup>191</sup> The research outlines practical and legal challenges that exist with regard to the use of petitions at the local level. Some of the recommendations related to improving the petitions system include:

- In particular, proper and timely information of the authors of the petitions and proactive disclosure of information related to the petitions;
- In order to activate the petitions mechanism in the municipalities, increasing the awareness of the broader public with regard to the nature of petitions and procedures of their submission;
- Through a decree of the Head of the Municipal Council, determine a responsible person that will assist the public on procedures of initiating, registering and discussing petitions. The person in question should also be tasked with informing the interested parties about what decisions have been made on the petitions.

### *Good practices*

The practices of initiating petitions vary in each municipality of Georgia. Based on the results of the 2019 National Assessment of Georgian Municipalities (LSG Index), at least one petition was submitted in 16 municipalities, out of which 6 Municipal Councils followed and met all procedural requirements when discussing and assessing the civic initiatives.

An interesting and successful initiative from Poti Municipality can be highlighted: local activists used an online petition module developed on the website of the City Hall to register a petition and accumulate support on the instalment of a station to monitor the quality of the air.<sup>192</sup> After a successful advocacy campaign, the petition was considered by the local authorities and implemented.

Tbilisi Municipality has also taken steps towards raising civic involvement in decision-making processes by developing electronic petitioning mechanisms. Within the framework of the Tbilisi OGP Action Plan for 2017, the municipality undertook the responsibility to introduce a mechanism for electronic petitions to Tbilisi City Hall, by integrating a petitioning application (to the Mayor) onto the City Portal. The e-petitions portal ([idea.municipal.gov.ge](http://idea.municipal.gov.ge)) has been actively used by residents of Tbilisi. After launching the portal, more than 1 000 ideas were submitted, and more than 20 applications gathered the required minimum number of signatures to be considered by the City Hall.

## CONCLUSION

Local government plays a critical role for the well-being of citizens, delivering services, and providing the first point of contact between people and public administration. The proximity with citizens can help ensure that public authorities and services **are truly responsive and accountable, improving people's lives and** their trust and confidence in local institutions. However, the very qualities that make local and regional governments so important to citizens can also make them more prone to corruption.

Local governments in Georgia are taking important strides in improving the legal framework towards more open and inclusive decision-making. However, on a practical level, local government units should translate laws and policies into practice and increase their efforts to ensure transparency, accountability and meaningful participation of citizens in policy- and decision-making. As well as being important qualities of local democracy, transparency and civic participation can help deliver effective public services, combat and prevent corruption, and build **citizens' trust in government.**

The mechanisms outlined in this handbook present a variety of ways in which local and regional authorities can prevent corruption, reduce its risks, and develop effective and accountable institutions at all levels. Other reforms, such as protection of whistle-blowers and support for independent media and civil society, are also critical to building open government, public ethics and accountability. An effective approach to rooting out corruption could be through reporting by public officials, the media and civil society, who need to feel confident that they will be listened to and protected.

The Congress of Local and Regional Authorities of the Council of Europe is committed to supporting local governments in their efforts to improve the quality of local democracy, prevent corruption, increase ethics and public accountability, and promote transparency and citizen participation.

# Endnotes

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