



**Institute for Development
of Freedom of Information**

**Institute for Freedom of Information
Recommendations for the New Anti-Corruption
Strategy and Action Plan 2019-2020**

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Contents

| | |
|--|----|
| General Overview | 2 |
| 1. Effective Interagency Coordination for the Prevention of Corruption | 2 |
| 2. Public Service | 3 |
| 3. Openness, Access to Public Information and Civic Participation | 4 |
| 4. Education and Public Awareness Raising..... | 4 |
| 5. Law-enforcement bodies | 4 |
| 6. Judiciary..... | 5 |
| 7. Public finance and public procurement..... | 6 |
| 8. Customs and tax system | 7 |
| 9. Private sector | 7 |
| 10. Health and Social Sector | 7 |
| 11. Prevention of Political Corruption..... | 8 |
| 12. Defence Sector..... | 8 |
| 13. Sports | 9 |
| 14. Infrastructural Projects | 9 |
| 15. Regulatory bodies..... | 9 |
| 16. Municipalities..... | 10 |

General Overview

Institute for Development of Freedom of Information (IDFI) welcomes the preparation of draft Anti-Corruption Strategy and Action Plan for 2019-2020 by the Secretariat of Anti-Corruption Interagency Council.

IDFI is concerned that in the second half of 2019, National Strategic Anticorruption documents for 2019-2020 have not been approved by the Government yet. IDFI calls for the Secretariat of the Anticorruption Council to carry out preparation of the documents efficiently to ensure timely adoption of the documents.

IDFI welcomes the fact that part of its initial recommendations on Anticorruption Strategy and AC 2019-2020 from April, 2019 have been taken into consideration by the Secretariat and hopes that all the important recommendations will be reflected in the final versions of the documents. **IDFI considers that the new Anti-Corruption Strategy and Action Plan need to provide for creation of an independent anticorruption agency with public trust, high degree of independence and relevant competency to investigate high-level corruption cases and to answer legitimate questions accumulated in the society.**

IDFI's specific recommendations on the new Strategy and Action Plan are provided below:

1. **Effective Interagency Coordination for the Prevention of Corruption**

First goal of the Anticorruption Strategy and Action Plan is *development and implementation of common national anticorruption policy, creation of effective cooperation and coordination mechanism; coordinated work for corruption prevention and implementation of risk based policy.*

Even though Anticorruption Strategy considers it important to effectively fight against complex and high level corruption, there are no corresponding objectives and/or activities set forth in either the Strategy or the Action Plan. High level corruption is not identified as one of the challenges in the situation analysis of the Strategy. Alleged high level corruption cases, which have not been investigated are not very rare and local civil society organisations as well as international society has been actively highlighting this challenge recently.¹ Furthermore, European Parliament Resolution underlines that high level corruption constitutes a serious problem in the country.² The same is mentioned in the International Transparency research on anticorruption mechanisms in eastern European and central Asian countries. According to the research, Georgian authorities have not established independent anticorruption agency despite the need to do so.³ **Therefore, IDFI remains on its position that in depth situation analysis on high-level corruption needs to be**

¹ International transparency Georgia, *Alleged cases of high-level corruption point at need for drastic changes in anti-corruption system*; Open Society Fund, *Addressing High-Level Corruption in Georgia: Progress Toward Meeting the EU-Georgia Association Agenda Commitments*; Institution for Development of Freedom of Information, *The Georgian National Anti-Corruption System is Ineffective against High Level Corruption*.

² European Parliament [resolution](#) of 14 November 2018 on the implementation of the EU Association Agreement with Georgia (2017/2282(INI)), 336. 22.

³Transparency International, *Eastern Europe & Central Asia: Weak Checks and Balances Threaten Anti-Corruption Efforts*, 2019.

carried out by the Secretariat and the new Anti-Corruption Strategy and Action Plan need to provide for creation of an independent anticorruption agency.

Effective interagency coordination for corruption prevention implies active work of the interagency Council in terms of decision-making and monitoring of Strategy and Action Plan implementation as well as involving all relevant agencies in this process. Regrettably, a few important government institutions are no longer part of the anticorruption strategic documents (for instance: Ministry of Internal Affairs is presented with a single activity⁴). **Therefore, IDFI recommends for the Inter-Agency Coordination Council against Corruption to pay proper attention to the participation of the government institutions in the strategic anticorruption documents.**

It is necessary for the Action Plan to provide for the strengthening of the Secretariat of the Anti-Corruption Council with qualified personnel (OECD-ACN, Recommendation 3 of the Fourth Round Monitoring Report). The Action Plan must provide for significant commitments for the Secretariat: carrying out regional anti-corruption event to contribute to the international cooperation; developing the risk assessment methodology with the civil sector involvement; actively prepare and publish researches and analysis in relation of corruption prevention. Even though the Strategy itself highlights this problem, relevant activities are not foreseen by the Action Plan. **Thus, IDFI recommends for the Anticorruption Action Plan to provide for the commitment on strengthening the Secretariat of Anticorruption Council and to add more important activities to be carried out by the Secretariat.**

2. Public Service

For the prevention of corruption in public service it is important to ensure the effective functioning of the employees' assessment system. It is noteworthy that until 2018, the assessment system in public service was not obligatory. **The new Anti-Corruption Action Plan should include monitoring, evaluation and implementation of the assessment system, as required.**

IDFI considers it necessary to provide in the Action Plan awareness raising activities on the whistle-blower mechanism. Knowledge regarding the Institute of whistle-blower is still low within public institutions, which is mentioned in the OECD-ACN report as well. According to the recommendation 10 of this report, it is important to continue the awareness raising activities on the whistle-blower mechanism. **IDFI recommends to provide for awareness raising commitments regarding whistle-blower mechanism in the Action Plan.**

⁴ Some other agencies are represented with similarly minimalistic commitments: Business Ombudsman, national regulatory authorities, municipalities. The Action Plan does not foresee objectives for corruption prevention in important areas: environmental protection, regional development, infrastructural projects.

3. Openness, Access to Public Information and Civic Participation

Participation of the civil society representatives in the work of Anticorruption Council has reduced recently due to the formalistic nature of the process and lack of genuine involvement. To ensure the openness, objectivity and independence of government institutions, participation of civil society is a must. **IDFI recommends to assign the role of co-chair of the Anticorruption Council to civil society representative who will have the right to put an issue on the Council's agenda.**

It is necessary to create the independent supervisory body on freedom of information with the authority to issue obligatory decisions.⁵ Sadly, the new Anticorruption Action Plan does not provide for such commitment. The new Action Plan does not provide for commitments on improving practice and law regarding proactive publication and issuance of public information. Therefore, IDFI recommends to include following commitments in the new Anticorruption Action Plan:

- Creation of independent supervisory institution for public information
- Improve institutional independence of persons responsible for issuing public information and proactive publication and their systemic training
- Registering issuance of public information by the of public institutions and ensuring its publicity;

4. Education and Public Awareness Raising

IDFI welcomes reflection of all of its recommendations regarding chapter 4 in the Anticorruption Action Plan.

5. Law-enforcement bodies

Providing for the commitments directed at improving law-enforcement bodies' fight against corruption without any objectives/activities on preventing/fighting corruption within the law-enforcements system itself constitutes an important loophole of the anticorruption policy planning process.

Situation Analysis carried out by IDFI⁶ shows existing challenges of the law enforcement system: need to improve the legislation on appointment, promotion and incentives of prosecutors. **Thus, IDFI recommends for the Anticorruption Action Plan to foresee following commitments:**

⁵ OECD-ACN Fourth Round Monitoring Report, rec. 14, <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Progress-Update-2018-ENG.pdf>.

⁶ GRECO and OECD-ACN fourth round recommendations on corruption prevention as well as recommendations of local civil society has been analyzed.

1. Defining in the legislation clear and objective criteria for appointment and promotion of prosecutors, ensuring their publicity and the reasoning of the decision on promotion and appointment and increase the role of collegial bodies in this direction.⁷
2. Defining in the legislation detailed criteria for incentives of prosecutors, ensuring full compliance of prosecutors' system of bonuses with the GRECO and OECD-ACN recommendations.

6. Judiciary

Many important issues for corruption prevention within Judiciary are covered by the anticorruption strategic documents, however the National Anti-Corruption Strategy and the 2019-2020 Action Plan must further include following key issues:

1. Decisions of the High School of Justice on competition results must be reasoned and appealing mechanism – created;
2. Rule on forming Independent Council of High School of Justice must be revised to ensure fair and objective division of powers between the School and the High Council of Justice;
3. Review the rules of recruiting of the High School of Justice Teachers, which should ensure the objectively and transparently of the teacher selection process.
4. Improvement of the system of appointment and promotion of judges to ensure objectivity and transparency of the selection criteria and the risk of abuse of power, lack of transparency and reasoning of decisions.
5. Revision of the authority of the Court Chairperson in terms of distributing judges to narrow specialization that is criticized by the OECD-ACN fourth round second progress report.
6. Improving disciplinary Liability of Judges by establishing foreseeable and clearly formulated grounds of disciplinary responsibilities and developing judicial ethics.
7. Creation of strong legislative guarantees for independence of Independent Inspector including the amendment to the existing rules for appointment and dismissal of the Inspector and determining the rules of appealing against his/her dismissal, as well as determining the remuneration by the law.
8. Increase transparency of the activities of an Independent Inspector, which implies the publicity of conclusions prepared by an independent inspectorate by covering the identification data of the parties, as well as regulating in the law the periodic publication of generalized report on disciplinary cases.
9. Increase of transparency of the High Council of Justice, which includes adequate regulation of the rule of closure of the hearing and procedure, as well as conducting an open sitting for interviewing candidates for judges.

⁷ The OECD-ACN Fourth Round Monitoring Report, rec. 13, recommends this.

7. Public finance and public procurement

Unfortunately the Anticorruption Strategy does not pay adequate attention to the challenges existing in public procurement. For instance, situation analysis of the Strategy only underlines the necessity of maintaining achieved standards of public procurement transparency rather than its improvement. In order to prevent corruption, continuous efforts to increase transparency is needed (for instance, publication of information regarding subcontractors). Consequently, IDFI recommends needs identified in the situation analysis to be fully reflected in the Action Plan:

- **Improvement of qualification of the personnel of procuring organisations including in anticorruption;**
- **Refinement of procedures regarding putting economic operators in the black list by adding to its criteria commitment of corruption offence by the management of the operator.**

In the new Action Plan the activity 7.3.1 is still too general – implementing new procedures, instruments and other business procedures in the common electronic procurement system. **IDFI considers it necessary to specify the commitment in the Action Plan in order to make monitoring and assessment of the progress possible.**

Furthermore, courageous steps should be made towards protecting the procurement system from outside threats, such as:

- **Strategy must pay more attention to increase the competition in state procurement as the competition is one of the best ways for reducing corruption risks.**
- **Asdding more parameters for subscription function of the state procurement announced in the unified electronic system, e.g. specific buyer, sum, more detailed CPV codes and tender location.**
- **Adding the free and universal business analytical module based on the open data in the unified electronic system of public procurement.**
- **Adding information types in the unified electronic system of procurement.**

In order to increase transparency of public procurement, following information must be publicised in the electronic system:

- **Fields (on tenders and direct procurement) in the electronic procurement system, where comprehensive information will be uploaded on subcontractor and on the subcontract.**
- **Price inquiry on procurement procedures, which will be used by procurer. Procedure may be closed before concluding relevant contract, after which, it needs to be publicized.**
- **Quality control fields to the electronic system for service procurement (on tenders and direct procurement), where it will be obligatory to publish exhaustive information on the quality control performed on the completed work, including quality assessment documents.**
- **Field to the tenders announced at the state procurement electronic system at the municipality level.**
- **Estimated dates of each planned procurement (month instead of quarter).**

Recommendation 15 of the OECD-ACN Fourth Round Report envisages improvement of public procurement and draws special attention to the refinement of the publication of data on state procurement. As it is

mentioned in the Anticorruption Strategy, National Procurement Agency together with the World Bank is working on implementation of the OCDS standard. Besides, according to the information available for IDFI, working on new open data portal is being concluded. The portal enables data segregation via the Application Programming Interface. Simplification of receiving data through the API is very important in terms of anticorruption activities, this is why **IDFI believes that the Anticorruption Strategy must pay more attention and the Action Plan must provide for the commitment on adding full API technology to the electronic procurement system and on its further development.**

8. Customs and tax system

IDFI welcomes that its recommendations regarding Chapter 8 are fully reflected in the New Anti-Corruption Action Plan.

9. Private sector

Prevention of Corruption in Private Sector became part of the Anti-Corruption Action Plan in 2015, but in the following years, development of this direction and harmonization with the international standards have not been achieved. Large business associations do not participate in the work of the Anticorruption Council. The OECD-ACN Fourth Round Report provides⁸ for recommendations on business integrity and Business Ombudsman which was not reflected in the previous action plans. As business is the area where controlling corruption is challenging, it is of utmost importance to study corruption risks and provide for relevant commitments and measures in the new Action Plan. Business Ombudsman needs to be a strong institution and intermediary between the government and business representatives. Its involvement in the law-making needs to be strengthened and it should provide the information about significant changes or initiatives to the private sector. Accordingly, IDFI believes that following commitments need to be foreseen by the Anticorruption Action Plan:

1. **Studying business integrity risks and carrying out measures to reduce them;**
2. **Ensuring participation of large business associations in the work of Anticorruption Council and correspondingly – in the anticorruption strategic documents;**
3. **Strengthening capacity of the Business Ombudsman in order to contribute to business integrity.**

10. Health and Social Sector

IDFI's recommendations to ensure transparency of the work of special commissions created for funds' distribution among healthcare and social programs and to create monitoring mechanism have not been taken

⁸ OECD-ACN fourth round report, rec. 16, <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Progress-Update-2018-ENG.pdf>.

into consideration. IDFI urges the Anticorruption Council to put following commitments in the Anticorruption Action Plan:

1. Strengthening the monitoring of universal healthcare programme – monitoring system of the state funds' spending allocated within the program in order to reduce the likelihood of illicit activities of medical institutions. Namely, the system must ensure maximum control of the arbitrary aggravation or alteration of the patient's conditions by the medical establishments for obtaining additional compensation through a corrupt agreement with an appropriate controlling person or through bypassing it.

2. Strengthening monitoring of Commissions' activities established within the state programmes - the amount and sequencing of the finances granted to beneficiaries within various social and healthcare programmes depend on the decision of the special commissions. For instance, a specially created commission discusses requests directed to the Minister of Healthcare in order to participate in a state referral program; the Commission for IDP ensures organization and implementation of the long-term housing for IDPs. For corruption risk reduction of such commissions, is important to ensure transparency and adequate monitoring of their activities.

3. Ensuring monitoring of pension reform - pension reform has just been introduced in the country, and it has raised many questions. In general, any large-scale reform needs to be monitored for deficiencies in order to take appropriate measures. The financial basis of accumulated pensions, however, is, by its scale, vulnerable to corruption. Therefore, it is essential that the anti-corruption action plan incorporate monitoring reform measures.

11. Prevention of Political Corruption

IDFI welcomes that its recommendations regarding Chapter 11 are fully reflected in the New Anti-Corruption Action Plan.

12. Defence Sector

IDFI welcomes that most part of its recommendations regarding Chapter 12 is reflected in the New Anticorruption Action Plan. However, the Ministry of Defence is often the object of criticism due to the high rate of ineffective procurement made by the Ministry, due to the failure to release public information and due to the failure of the high officials of the Ministry to fill out the assets declarations properly.⁹

Accordingly, IDF considers that in order to prevent corruption at the Ministry of Defense, the accountability of the Ministry needs to be strengthened, including ensuring participation of the Parliament and the public in the process of planning of the reforms and assessing the achieved outcomes.

⁹ Please see the information [here](#), [here](#) and [here](#).

13. Sports

In terms of preventing corruption in sports, the major challenge is the absence of appropriate mechanisms for ensuring transparent activities in sports federations recognized by the Ministry. In the National Anti-Corruption Strategy and the 2019-2020 Action Plan, it is important to provide the commitment for raising the quality of access to information and improving the quality of monitoring of their activities within such sporting organizations:

- **Introduction of relevant legislative regulations for sports federations to establish the standard of issuing public information and proactively publishing it;**
- **Ensuring detailed financial reports on expenditure incurred within the state budget and ensuring its publicity;**
- **Ensuring publicity of audit checks of sports federations and relevant findings;**
- **Ensuring transparency of the allocation of cash prizes and of the awarding of these prizes to athletes, coaches or other support staff.**

14. Infrastructural Projects

Infrastructural projects own one of the large budgets and consequently high risks of corruption. For the prevention of corruption in the infrastructure sector, it is important to ensure transparent and effective management of infrastructural projects, protection of ethical principles. Ensuring quality control in infrastructural projects, improving competences of human resources and ensuring competition is one of the recommendations provided for the fourth round of OECD-ACN.¹⁰

IDFI believes that for preventing corruption in infrastructural projects, it is important for the new Action Plan to take into account the following recommendations:

1. **Improvement of criteria for selecting projects for implementation.**
2. **Systematization of staff training on infrastructure projects management, planning and monitoring.**
3. **Implementation of ethical norms by systematically implement the awareness raising activities of employees on ethics and integrity.**

15. Regulatory bodies

IDFI considers that in order to prevent corruption within regulatory bodies, the new Anti-Corruption Action Plan must include measures for implementation of **transparent and objective system of remuneration and bonuses.**

¹⁰ OECD-ACN Fourth Round Report, rec. 22. <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Progress-Update-2018-ENG.pdf>.

Increasing transparency of Consumer Rights Public Defender's Office and Energy Ombudsman and raising awareness of the society is important. Accordingly, the **new Action Plan need to foresee some key measures in this direction, including carrying out public opinion and awareness survey.**

Clear, objective and transparent criteria for appointment and dismissal of employees in one of the most important components for corruption prevention. Accordingly, it is important the new Action Plan to foresee **improvement of the appointment and dismissal procedure of the employees of of Consumer Rights Public Defender's Office.**

Commitments regarding training the employees of Regulatory Bodies as well as Consumer Rights Public Defender's Office and Energy Ombudsman in corruption prevention, including norms of ethics, need to be reflected in the new Action Plan.

16. Municipalities

For corruption prevention in municipalities IDFI proposed following recommendations:

- **New decentralization principles, objectives and relevant activities need to be provided for in the new Anticorruption Action Plan for 2019-2020: development of municipal services, implementation of universal electronic system for information flow management;**
- **Improving internal audit effectiveness and availability of their reports;**
- **Increasing transparency of non-profit (non-commercial) legal entities of municipalities;**
- **Raising awareness about the participation mechanisms under the Local Self-Governance Code;**
- **Implementation/improvement of proactive publication of public information and access to open data standards.**

From these proposals first one was partly taken into consideration in terms of implementation of electronic municipal services and informing public thereof. However, these commitments are foreseen only for few municipalities and the main channel of information distribution is mentioned to be social networks. This cause doubts about the effectiveness of the planned commitments.

Besides, according to the recommendations provided by the IDFI, the number of the municipalities had to be increased in the Action Plan, however, only Kutaisi municipality was added to the previous ones. This indicates the lack of ambitiousness of the Action Plan.

The rest of the recommendations have not been taken into consideration when preparing the new anticorruption strategic documents. We consider it of utmost importance to improve internal audit effectiveness and availability of their reports as well as increasing transparency of non-profit (non-commercial) legal entities of municipalities. Furthermore, one of the recommendations of OECD-ACN is to strengthen internal audit services and implementing the rules on conflicts of interest and corruption by non-entrepreneurial (non-commercial) legal entities. We urge the authorities to reflect these recommendations in the strategic anticorruption documents.