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ISTANBUL ANTI-CORRUPTION ACTION PLAN

FOURTH ROUND OF MONITORING

Georgia

PROGRESS UPDATE

This document contains the progress update and assessment of implementation of recommendations from the Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan for Georgia. This Progress Update was adopted at the ACN Plenary meeting on 13 September, 2017.

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BACKGROUND

About the OECD

The OECD is a forum in which governments compare and exchange policy experiences, identify good practices in light of emerging challenges, and promote decisions and recommendations to produce better policies for better lives. The OECD's mission is to promote policies that improve economic and social well-being of people around the world. Find out more at www.oecd.org.

About the Anti-Corruption Network for Eastern Europe and Central Asia

Established in 1998, the main objective of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is to support its member countries in their efforts to prevent and fight corruption. It provides a regional forum for the promotion of anti-corruption activities, the exchange of information, elaboration of best practices and donor co-ordination via regional meetings and seminars, peer-learning programmes and thematic projects. ACN also serves as the home for the Istanbul Anti-Corruption Action Plan. Find out more at www.oecd.org/corruption/acn/.

About the Istanbul Anti-Corruption Action Plan

The Istanbul Anti-Corruption Action Plan is a sub-regional peer-review programme launched in 2003 in the framework of the ACN. It supports anti-corruption reforms in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Ukraine and Uzbekistan through country reviews and continuous monitoring of participating countries' implementation of recommendations to assist in the implementation of the UN Convention against Corruption (UNCAC) and other international standards and best practice. Find out more at www.oecd.org/corruption/acn/istanbulactionplan/.

PROGRESS UPDATE METHODOLOGY SUMMARY

After the adoption of the Monitoring Report, the evaluated country presents a Progress Update at each subsequent ACN Plenary meeting.

The **Progress Update** begins with a description of the methodology, followed by the summary of the assessment of implementation of recommendations, as agreed during the Plenary Meeting of September 2016. It then goes into each recommendation separately, providing the country report, as well as the ACN and expert evaluation. Each recommendation section includes all progress updates since the last monitoring report.

The Progress Update follows the following steps:

1. Progress Update reports are prepared by country representatives

These documents include information on implementation measures taken for each recommendation, and may also cover additional anti-corruption developments. Country representatives submit a written Progress Update report to the ACN Secretariat through appointed National Co-ordinators, together with supporting documents, such as laws and statistical data. Civil society also submits alternative reports on progress.

2. Preparation of preliminary assessment by ACN Secretariat and experts

The Secretariat and the experts who contributed to the Monitoring Reports (or delegates replacing the experts) study the Progress Update reports and prepare a draft progress assessment for the Plenary Meeting. Civil society is also invited to contribute to the evaluation.

3. Discussion at ACN Plenary meeting

ACN Secretariat and experts discuss the Progress Update during a bilateral preparatory meeting with country representatives. The Plenary then discusses and endorses the assessment.

4. Finalisation of Progress Update

Following the Plenary Meeting, the Secretariat adds the final assessment to the Progress Update reports, finalises and publishes them on the ACN website.

PROGRESS UPDATE SUMMARY

[will be added after the plenary]

Note:

Significant progress - important practical measures were taken by the country to adequately address many elements of the recommendation (more than a half). This can involve the adoption and/or enforcement of an important law.

Progress - some practical measures were taken towards the implementation of the recommendation. For example, drafts of laws that have been at least approved by the government and submitted to the parliament would constitute "progress" for the assessment of Progress Updates.

Lack of progress - no such actions were taken.

Recommendations, that appear to be fully addressed can be closed for the progress update procedure and further evaluated only as a part of the monitoring procedure.

PROGRESS UPDATES BY RECOMMENDATION

CHAPTER 1: ANTI-CORRUPTION POLICY

Recommendation 1: Anti-corruption action plans

- 1. Prepare a full budget estimate for the anti-corruption action plan and secure its allocation.**
- 2. Develop anti-corruption actions in sectoral ministries and agencies based on the corruption risk assessment and ensure their implementation.**
- 3. Promote the development and implementation of an anti-corruption action plan for the local self-government level.**
- 4. Develop impact indicators for the monitoring of the next anti-corruption action plan.**
- 5. Conduct, subject to the availability of funding, regular surveys based on impact indicators to demonstrate progress over time.**
- 6. Provide adequate time for feedback from non-governmental stakeholders during the development and monitoring of the anti-corruption action plan.**

18th Monitoring Meeting, September 2017

NGO report

1. Draft Anti-Corruption Action Plan for 2017-2018 was elaborated through a number of working group meetings and was presented to the Council on April 24, 2017. The action plan presented to The Council and approved includes the attachment of budget estimate for the activities. However, new action plan is not yet approved by the Government and is not publicly available on the webpage.

2. Sectoral Anti-Corruption action was elaborated only for Increasing the Transparency and Integrity of the Ministry of Regional Development and Infrastructure of Georgia (MRDI) (2017-2018). Since MRDI is one of the key public institutions that manages a large volume of budgetary funds, it is critically important to have a tailored policy document that would identify individual risks and set objectives for their resolution. MRDI was one of the first public institutions to adopt such a sectoral anticorruption/integrity strategy. Throughout 2016, IDFI has been actively supporting the Ministry in the process of developing the sectoral integrity strategy and action plan. IDIF has drafted both policy documents and has advocated their adoption through the decree of the Minister. During discussion of the recommendation of the Institute for Development of Freedom of Information (IDFI) on reflecting the MRDI action plan implementation in Anti-Corruption Action Plan on one of the working group meetings held on March 28, 2017, The Secretariat of Anti-Corruption Council stated its position that implementation of other action plans should not be the part of Anti-Corruption Action Plan. However, the action plan approved by the Council includes the action of the Ministry of Defence (MoD) on the elaboration and implementation of the transformation action plan of the defence. There is another activity of Rustavi City Hall on elaboration of the Open Governance strategy and action plan for Rustavi Municipality.

IDFI also recommended the elaboration of transparency and accountability strategy and action plan for the security sector based in the framework of Anti-Corruption Action Plan. This recommendation was not reflected in the action plan.

In addition, IDFI considers that the resources of the secretariat will not be sufficient to work with

other ministries/agencies independently outside the framework of the action plan on the elaboration of sectoral actions. Moreover, no information is provided by the Secretariat on the agenda to initiate work on the sectoral actions.

3. In the action plan presented to the Council priority 14 is related on the prevention of corruption in the local self-governing bodies. This part includes 6 different activities of Rustavi Municipality City Hall and Council, Telavi Municipality Council and Tbilisi Municipality City Hall. Although involving the above-mentioned municipalities is a positive step, IDFI considers that including selected municipalities in the action plan does not adequately reflect the challenges identified within Recommendation 1(3). The Secretariat of the Council has not devoted a separate meeting to the issue of a separate action plan for the local level. In addition, the actions given in the 2017-2018 action plan only include several municipalities, which does not offer a unified policy solution for all municipalities. IDFI recommends to adopt measures/legislative amendment proposals that will have a collective effect. It is also vital to include the Ministry of Regional Development and Infrastructure in the elaboration of a separate action plan, since MRDI is a central government institutions that serves as a liaison between the central government and municipalities.

4. New Anti-Corruption Action Plan is not yet approved by the Government of Georgia and is not publicly available. Updated monitoring framework is also not presented to the members of the Council. Despite the fact that the action plan approved by Council includes both outcome indicators, it does not include indicators that measure impact.

5. See 4. The plan to conduct survey based on the impact indicators is not presented by the Secretariat. Activity 4.6. of new Action Plan (not approved by the Government yet) envisages elaboration of analytical and legal researches in the anticorruption direction. The same activity indicates that at least one research should have been elaborated and published on the MoJ's or ACC's webpage in the first half of 2017. However, no document was published by the Secretariat. In addition, even though the Action Plan states that the documents should be published on either MoJ's or ACC's webpage no other activity in the Action Plan states that the Secretariat will work on launching of separate webpage of the ACC.

6. During the elaboration of new Action Plan sufficient time for feedback and recommendations (2 weeks) was provided to CSOs.

Assessment of Progress

Elaboration of Anti-Corruption Action Plan for 2017-2018 started in December, 2016. It was approved by the Council in April, 2017. The action plan is not yet approved by the Government and is not publicly available. The Secretariat stated that elaboration and implementation of sectoral action plans should not be part of the Anti-Corruption Action Plan. Activities of the 3 municipalities are reflected in the action plan approved by the Council. Impact indicators are not developed for new action plan and monitoring framework is not updated for new action plan. Surveys to demonstrate progress are not conducted and there is no plan presented by the Secretariat. Adequate time was given to the CSOs to present their feedback in the process of elaboration of new action plan. On the basis of described developments IDFI considers that there is **lack of progress** for the implementation of Recommendation 1.

Recommendation 2: Anti-corruption awareness raising and education

- 1. Speed up the development of the public relations strategy and ensure sufficient funds for its implementation.**

2. **Continue and expand anti-corruption educational activities for the general public and special target groups, focus them on systemic, high-level and complex corruption issues.**

18th Monitoring Meeting, September 2017

NGO report

1. The Secretariat gave an explanation on the public relations strategy on one of the working group meetings and stated that after approval of the action plan they will deliver the strategy. The strategy was supposed to be finalized by the end of 2016. No further development is shown with regard to the strategy. In the new Anti-Corruption Action Plan approval of public relations strategy is envisaged in the second half of 2017 (from July till December), and 30% of activities of the strategy should be planned and implemented in the same period. However, no progress is shown yet. As it was mentioned above, it is a significant challenge that the new Anti-Corruption Action Plan is not approved by the Government and is not publicly available on the webpage.

2. IDFI is not aware of any educational activities conducted by the Secretariat for the public, especially with regard to the high-level and complex corruption issues that are becoming alarmingly challenging issues for the Government of Georgia. Nor has the Secretariat informed members of the Council/working group about planned educational activities. According to the 2017-2018 Action Plan, the Secretariat had an obligation to conduct at least 5 small working meetings about the new action plan an anticorruption policy; however, IDFI is not informed where and if those meetings have taken place. It is also important to have a pre-defined target audience (reflected in the action plan) that will be engaged during those meetings.

Assessment of Progress

The draft strategy was prepared by the time of the OECD-ACN expert visits in Georgia, August 2016. Until today, no development is shown for the finalization of the document. IDFI is not aware of any educational activities conducted by the Secretariat within the reporting period. Hence, **no progress** was shown to implement Recommendation 2.

Recommendation 3: Anti-corruption policy co-ordination institution

1. **Review the practice of the Anti-Corruption Council to identify ways to address emerging high-level corruption instances and enforcement issues.**
2. **Ensure that sufficient resources are allocated to the ACC Secretariat to enable it implement its tasks under the Anti-Corruption Strategy and Action Plan.**
3. **Create a dedicated anti-corruption web-site of the Anti-Corruption Council.**
4. **Institute regular reporting to the Parliament in order to engage MPs in the anti-corruption work and to increase the Council's visibility.**
5. **Consider establishing a dedicated anti-corruption unit in the Analytical Department of the Ministry of Justice as a visible Secretariat to the Council.**

18th Monitoring Meeting, September 2017

NGO report

1. Emerging high-level corruption instances are becoming increasingly alarming in Georgia. IDFI recently published a policy [paper](#) on the inefficiency of the institutions performing the corruption prevention and investigation functions. ACC Council obviously does not have power to fight high-level corruption crimes, it has only recommendatory and policy making character and does not exercise any hard law enforcement power. The challenge emerging of high-level corruption instances was mentioned by IDFI several times on the working group and other thematic meetings. However, no specific steps were planned to review the practice of ACC. Neither did the Secretariat expressed its readiness to tackle this challenge. The State Security Service, Office of the Prosecutor and the Investigation Service of the Ministry of Finance are the main public agencies tasked with enforcement of anticorruption legislation; however, no specific plans/solutions have been presented by either of these institutions. In addition, several alarming corruption allegations have been made by media and CSOs with regard to present and former high ranking officials of the law enforcement agencies. Nevertheless, the agencies in question have failed to provide policy solutions and arguments to the contrary.

2. No additional resources are provided to the ACC Secretariat. Neither is there a known intention to allocate additional resources to the Secretariat.

3. The website of the Anti-Corruption Council is not created and the Secretariat expressed its position that creation of specialised website is not in the agenda. Only a banner on the webpage of MoJ was added. At the same time, activity 4.6. of the Action Plan states that the documents should be published on either MoJ's or ACC's webpage; however, no other activity in the Action Plan states that the Secretariat will work on launching of separate webpage for the ACC. Activity 1.1.2. indicates that the document will be published on the MoJ webpage under the ACC banner. This is clear indication that the Secretariat does not have a clear position on the specialised ACC website. In addition, since the Action Plan is not yet approved by the Government and since is not publicly available, it is difficult to base our assumptions on the document that was provided to the Council. IDFI has mentioned the problem of insufficient e-resources on a number of different occasions, both within the Anti-Corruption expert level working group and the OGP Forum. So far, the Secretariat has not yet reacted to the requests of IDFI.

The webpage of MOJ is not regularly updated; anticorruption documents, including minutes of the Council/working group meetings and reports are not updated. The Secretariat made a clarification on one of the working group meetings (6 months ago), that the webpage is under construction and after the process is finished they will provide updated information. Until today, nothing has changed with regard to the webpage.

4. The agenda to start cooperation with the Parliament through regular reporting was not communicated with the ACC members. IDFI considers that no steps had been taken to fulfil this recommendation. Since the civil society works actively with the parliament (also within the scope of the Interfactual Parliamentary Openness Working Group), it is also important to involve CSOs in the process of establishing a link between ACC and the parliament. Unfortunately, representatives of the parliament do not participate in the work of the Council and the legislative body does not have any commitments/actions in the draft 2017-2018 action plan.

5. IDFI is not aware of any steps/measures to establish a dedicated anticorruption unit in the Analytical Department of MoJ.

Assessment of Progress

No actions had been taken to fulfil either part of the recommendation. The practice of ACC is not revised, neither has there been any movement in this direction. Allocation of further resources to ACC has not yet been discussed and the fighting against high-level corruption is becoming insufficient in relation to the challenges that exist today. A specialised website for the ACC is not

created and it is not planned to create one in the nearest future. No steps had been taken to start cooperation with the Parliament. No effort has been undertaken to establish a dedicated anticorruption unit in the MoJ. IDFI concludes that **no progress** has been made to fulfill recommendation 3.

CHAPTER 2: PREVENTION OF CORRUPTION

Recommendation 4: Policy framework for integrity in the civil service

- 1. Develop corruption risk assessment methodology that will be used by line ministries, state agencies and local governments in developing their internal anti-corruption action plans.**
- 2. Promote the role of heads of institutions in ensuring integrity. Assign the coordination of integrity and anti-corruption work in each public institution to specific persons or units.**
- 3. Develop educational programmes for public officials about integrity and corruption targeting special groups selected on the basis of corruption risk assessment.**
- 4. Develop impact indicators and conduct regular surveys to measure progress in promoting integrity in the civil service as a whole and in selected institutions in particular.**

18th Monitoring Meeting, September 2017

NGO report

1. Elaboration of corruption risk assessment methodology is envisaged in the new Anti-Corruption Action Plan for 2017-2018 approved by the ACC. According to the action plan this activity should be implemented in 2018.
2. IDFI is not informed of any steps undertaken to assign specific persons or units for coordination of integrity and anticorruption work. It is regrettable that no meetings of the Council or its expert level working group have taken place since April 2017. These meetings would be a good opportunity to involve designated individuals about the most recent national and international developments related to integrity and anticorruption. In addition, CSOs would communicate with these individuals and would help them to fill any substantive gap than they might have.
3. During the ACC session on April 24, 2017, the Secretariat presented the Concept on Training Program for Public and Civils Servants on Anti-Corruption Policy and Legal Framework. However, since corruption risk assessment has not yet been conducted, the document was not based on any practical experiences. It is regrettable that CSOs have not been involved in the process of elaborating the assessment and have only been given an opportunity to provide comments on the draft document.
4. Impact indicators that measure progress for the entire action plan have not been developed. Regular surveys that promote integrity have also not been conducted neither as a whole nor for selected institutions.

Assessment of Progress

New Anti-Corruption Action Plan approved by the ACC envisages elaboration of corruption risk assessment methodology in 2018. No work has been done nor has there been a plan presented to promote the role of the heads of institutions in ensuring integrity and assigning persons or units to coordinate integrity and anticorruption work in each public institution. Concept on training program for civil servants was presented on the ACC session and was approved. Impact indicators are not developed and regular surveys are not conducted, neither is there a plan presented to conduct those activities. There is **lack of progress** in implementing recommendation 4; however, it is quite limited with regard to the entire objective of the recommendation.

Recommendation 5: Legal framework for the civil service reform

- 1. Finalise the legislative framework for the civil service reform by adopting remuneration and classification legislation without delay.**
- 2. Ensure that all positions that perform core functions of the state fall under the civil service legislation.**

18th Monitoring Meeting, September 2017

NGO report

1. Remuneration legislation, namely the law of Georgia on “Remuneration in Public Institutions” is not yet presented to the parliament, even though the Government of Georgia, according to the new law on Public Service should have submitted it to the parliament on 1st of September 2016. The effect of the new Law on Civil Service has also been postponed to July 1, 2017. Although there were several public discussions on the new draft law on remuneration (only one discussion has taken place for CSOs) it has not yet been adopted by the Government and has not been submitted to the parliament. . Furthermore, an ordinance of the Government of Georgia on the Procedure and Conditions for Assigning Officer Classes to Qualified Public Officials is in force from April 2017.

2. Law on Public Service covers almost all state institutions. However, in the transitional period (from 1st July until 31st of December 2017) law does not extend to Legal Entities of Public Law. In addition, the amendments to the law on Civil Service and the law on National Regulatory Bodies, entered into force on 30 June 2017, one day before entering new law on Civil Service in force, exempted the staff of the regulatory bodies from the law on Civil Service. This amendment was [criticized](#) by the IDFI. Regulatory bodies are the ones that are engaged in the public administration and extension of the law on Civil Service to regulatory bodies was based on the Civil Service Reform Concept that stated that a civil servant is any person, who is engaged in public administration. One more alarming development should be mentioned here with regard to the National Bank of Georgia. IDFI published an [article](#) on the risks of corruption and unequal treatment that possibly will derive from the amendments to the law on Conflict of Interest in Public Service, if entered into force. Namely, the amendments registered in the Parliament exclude the board members of the National Bank of Georgia from the law on Conflict of Interest in Public Service, giving only exception from the rule that “any other person elected, appointed or approved under the Constitution of Georgia” should be considered as official. The board of National Bank obviously performs governing functions and the Bank itself is one of the core institution in the state, while the law on Conflict of Interest in Public Service is one of the core legislative acts in the civil service system.

Assessment of Progress

The Decree of the Government on the Rules and Conditions of Assigning Classes to Professional Civil Servants was adopted on April 28, 2017. The enactment of the law on remuneration is delayed and

its timely enactment is crucial for the successful implementation of the civil service reform. Law on Civil Service covers almost all state institutions. However national regulatory body had been excluded from the law. At the same time there are negative developments with regard to the board of National Bank of Georgia. Overall, **progress** was shown in the implementation of recommendation 5. However, the delays and risks mentioned above should be eliminated.

Recommendation 6: Professionalism in the civil service

Consider introducing a top civil service post in public authorities (such as Secretary General) to prevent undue influence.

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NGO report

The position of the Government of Georgia introduction of top civil service post is not in the agenda, since it is not suitable for the Georgian model. No detailed communication or discussions had been held on this issue.

Assessment of Progress

No progress was shown for the implementation of the recommendation 6.

Recommendation 7: Merit-based recruitment and promotion

- 1. Build capacity and enhance the status of the Civil Service Bureau in the application of merit-based recruitment and promotion rules.**
- 2. Build capacity of HRM units in individual institutions for application of merit-based recruitment and promotion rules.**
- 3. Establish a human resource management information system to consolidate statistics.**

18th Monitoring Meeting, September 2017

NGO report

1. IDFI is not aware what activities have taken place in order to increase the capacity of the representatives of CSB. Although the new Law on Civil Service includes guarantees for merit-based recruitment, it has come into effect only recently and has most likely not had any practical influence over the system.

2. The Civil Service Bureau has organized several informational meetings with various public agencies, covering mainly the novelties introduced by the new Civil Service Law. IDFI is not informed whether CSB has worked with HRM units/departments on the topic of merit-based recruitment and promotion. 3. The Civil Service Bureau has been active in installing the information system for human resources departments of public institutions – HRMS. However, IDFI is not informed on how many institutions have been covered by the system. According to the latest report of the Bureau, HRMS had been installed in all central level public institutions (mainly ministries); however, it is not clear whether the system is operational in Legal Entities of Public law and municipal public agencies.

Assessment of Progress

IDFI is not informed of any capacity development activities organized by the Civil Service Bureau for representatives of HRM units. Therefore, it can be stated that **lack of progress** has been shown with regard to recommendation 7.

Recommendation 8: Remuneration of civil servants

- 1. Ensure that remuneration of public officials is transparent and predictable and that the principle of “equal pay for equal work” is applied in law and in practice.**
- 2. Consolidate statistics on payroll.**

18th Monitoring Meeting, September 2017

NGO report

1. Since the law on remuneration is not submitted to the Parliament yet the conclusions cannot be given at this stage. However, the principle of “equal pay for equal work” is reflected in the Article 57 of the law on Public Service and it is also reiterated in the new draft law on remuneration. In general, the draft law contains many positive developments; however, in practice it leaves room for risks related to transparency and predictability of remuneration. For example, according to the draft law, two individuals employed on similar civil service position can have a salary difference of 300%. The above-mentioned difference is however not linked to the civil service rank or class of the servant. In addition, the draft law does not regulate the problems that exist with regard to bonuses and salary supplements of high-level political officials (ministers, and heads of agencies), which remains problematic. Overall, the draft law on remuneration only describes the existing practices and fails to reform the negative tendencies established the remuneration system. IDFI is also working on more detailed recommendations that will be available to the public and also distributed to the ACN Secretariat.
2. IDFI is not aware if consolidated payroll statistics have been published, since the information has not been distributed to CSOs.

Assessment of Progress

Since the law on remuneration is not yet in force, there is **lack of progress** for implementation of the recommendation 8.

Recommendation 9: Conflict of interest, asset declarations and other anti-corruption requirements

1. **Extend the scope of all provisions in the Law on Conflict of Interest and Corruption in Public Service to all posts performing core public functions, including prosecutors.**
2. **Clarify the roles of different institutions in enforcement of conflict of interests and other anti-corruption restrictions, strengthen the capacity of internal audit or other units in line ministries and at the local level, consider designating special officers in large administrations and LEPLs to ensure the enforcement of rules on conflict of interest and other restrictions.**
3. **Monitor and evaluate effectiveness of the asset declaration verification system and impact of the asset declarations on the spread of conflict of interest and illicit enrichment.**
4. **Consider introducing effective penalties that would deter unexplained enrichment, conflict of interest and incompatibilities.**

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NGO report

1. According to the Article 4 of the Law on Civil Service, the law does not apply to prosecutors and they are not regarded as civil servants. The Law on Conflict of Interest and Corruption in Public Institutions only extends to the prosecutors. In addition, IDFI published article on the risks of corruption and unequal treatment that possibly will derive from the amendments to the law on Conflict of Interest in Civil Service, if entered in force.
2. IDFI is not informed about the status of this part of the recommendation.
3. The ordinance #81 of the Government of Georgia on the instruction of monitoring of asset declarations of officials entered in force in February, 2017. The asset declarations monitoring system will not function fully until 2018. Namely, the independent commission for selection of declarations will not be established until 2018. In addition, IDFI has published an [article](#) on the shortfalls of the ordinance. The monitoring of the effectiveness of the system will be possible after specific commitments derived from the ordinance is enforced. No further communication occurred by the Government of Georgia on the evaluation of effectiveness of system.
4. There have been no legislative amendments with regard to implementing effective penalties for violations of conflict of interest legislation. Currently there is an old system in place, which envisages a GEL 1,000 fine for improperly submitting the declaration. It must be pointed out that the only system is ineffective and does not adequately prevent conflicts of interest.

Assessment of Progress

The provisions of the Law on Conflict of Interest does not apply to all prosecutors- the law is only applicable to the Chief Prosecutor, Deputy Chief Prosecutors, Heads of Departments and individuals equivalent to their rank and heads of regional and district prosecution offices . There is amendment to the law submitted to the parliament enactment of which will exclude the board members of the National Bank of Georgia from the scope of the Law. Effectiveness of asset declaration monitoring system is not evaluated yet. Enforcement measures for conflict of interest legislation have not been amended and the old and ineffective system is still in place. The penalty for violations in the declaration is GEL 1000, which cannot be regarded as an effective measure There is **lack of progress** for implementation of the recommendation 9.

Recommendation 10: Protection of whistle-blowers

- 1. Continue education and awareness-raising activities about whistle-blowing in public institutions and in the private sector.**
- 2. Evaluate the effectiveness of reporting channels and the follow-up by law-enforcement bodies to identify the needs for further improvement.**

18th Monitoring Meeting, September 2017

NGO report

1. There is no activity envisaged by the new Anti-Corruption Action Plan on whistleblower protection. Problem of lack of statistics on whistleblowing is still present. IDFI has been observing that public servants still refrain from blowing the whistle on obvious corruption crimes they encounter (for instance misuse of public resources). The reasons are various, including that they do not trust the institution they work in. Namely, they consider that the person on managerial position will be better protected than them; they consider that it will damage them more than the perpetrator of corruption crime. The trainings on legislation and practice of whistleblower protection is envisaged in the concept of the training program of public officials and civil servants. An online whistle-blowing portal – www.mkhileba.gov.ge was created by the Civil Service Bureau and IDFI has been actively monitoring its utilization. In addition, the attitude towards the whistle blowing remains negative. Responsible agencies need to increase their efforts on the awareness activities on whistle blowers.

2. There has been no official communication on the Government's efforts to evaluate the effectiveness of reporting channels.

Assessment of Progress

According to the training program of public and civil servants the Government will continue education activities on the whistleblowing in public institutions. The statistics of the cases of whistleblowing is still challenge in Georgian public service. No effort had been shown by the Government to evaluate the effectiveness of reporting channels. Therefore, there is **lack of progress** in the implementation of recommendation 10.

Recommendation 11: Integrity of political public officials

- 1. Ensure that a Code of Conduct for MPs is adopted and provides for a strong monitoring, enforcement and sanction mechanisms that are implemented in practice.**
- 2. Introduce post-employment (“revolving door”) restrictions for ministers in the law with an effective enforcement mechanism in place.**

18th Monitoring Meeting, September 2017

NGO report

1. Within the 2016 Open Parliament Action Plan, the Parliament of Georgia has committed to creating an ethics code for Members of the Parliament (MP). A draft code was initiated by several MPs in September 2016; however, due to parliamentary elections in October, it was not possible to adopt the code. A new parliamentary majority has placed the adoption of the code as one of the commitments of the 2017-2018 Open Parliament Action Plan. Currently, the text of the code is in

the process of development and it is planned to adopt the document in 2017.

2. The only rule that applies to officials leaving the office is submission of asset declarations one year after resignation. There is no readiness from the Government side to introduce other rules in the legislation.

Assessment of Progress

Post-employment restrictions for ministers are not introduced in law. There is **progress** for the implementation of the recommendation 11.

Recommendation 12: Integrity in the judiciary

- 1. Increase transparency of the High Council of Justice activities, ensure that all Council's decisions contain detailed justification. Strengthen control of conflict of interests in the work of the High Council of Justice and its staff.**
- 2. Regulate directly in the law the main procedures for selection, appointment, promotion, transfer and dismissal of judges, leaving to secondary legislation only technical details.**
- 3. Introduce promotion of judges based on competitive procedure with an open announcement of vacancies and based on clear criteria for promotion.**
- 4. Revoke the powers of court chairpersons related to careers of judges, their material provision, bringing to liability and other powers that may affect judicial independence.**
- 5. Introduce an automated random case assignment in courts with publication of the results of such automated case assignment.**
- 6. Reform regulations in the law on disciplinary proceedings against judges by separating the function of investigation of disciplinary offences from the decision-making, revising grounds for sanctions to ensure legal certainty, ensuring fair trial guarantees for judges in the process.**
- 7. Exclude in the law any discretionary payments (e.g. bonuses) from judicial remuneration.**

18th Monitoring Meeting, September 2017

NGO report

IDFI emphasized in several instances that the HCoJ uses its powers against the interests of justice, instead of protecting them. The failure of the Ministry of Justice, the entity responsible for justice reforms, and the legislative authorities to act, and the inadequacy of legislative reforms that was implemented so far, grants the HCoJ absolute power to act in an arbitrary manner, which is leading the judiciary into a crisis. Despite this, authorities are failing to take effective measures to address the crisis. On 31 May 2017 in protest of the developments in the judicial system, NGOs

refuse to present their report and demand creation of a parliamentary forum to discuss the developments and prompt reforms.

Selection procedure of judges still remains of the main problem in the Georgian judicial system. NGOs stated that because of the deficient rules of judicial appointment, the public does not know what factors the Council considers during discussions and on what it bases its decision.

Recent appointments confirmed that in reality the amendments to the judicial selection and appointment system introduced by the so called “Third Wave” of reforms do not ensure appointment of candidates whose integrity and professionalism is adequately checked and confirmed. Additionally, the legislation still leaves the Council legal chances for arbitrary decisions, specifically allowing for appointment without substantiation and argumentation via secret ballot.

NGOs believe that It is necessary to revise the current basics of disciplinary proceedings of judges. The particularly important issue is imposition of disciplinary liability against a judge for decisions made in the process of administration of the justice. A judge should have freedom in interpreting and explaining the law and be protected from the threats of disciplinary proceedings unless the judge’s actions point at his/ her bad faith.

At the same time, it is necessary to increase the institutional guarantees of independence for the Independent Inspector who shall be appointed and dismissed for the 5-year term office by the High Council of Justice. The Independent Inspector based on a preliminary examination shall assess the validity of initiating disciplinary proceedings.

There are specific activities to implement 4th and 7th part of this recommendation in the AC Action Plan.

Assessment of Progress

Overall there is **lack of progress** for implementation of recommendation 12.

Recommendation 13: Integrity in the public prosecution service

- 1. To continue the reform aimed at further strengthening impartiality and independence of prosecutors, consider assigning the leading role in the recruitment, promotion, discipline and dismissal of prosecutors to the Prosecutorial Council or a similar body of prosecutorial self-governance independent from the Chief Prosecutor.**
- 2. Define in the law clear procedures for merit-based recruitment and promotion, disciplinary proceedings and dismissal of prosecutors.**
- 3. Continue to ensure that in practice the number of cases resolved or the number of acquittals do not play significant role in the performance evaluation of prosecutors.**
- 4. Consider revoking the payment of any discretionary bonuses to prosecutors. If bonuses are preserved, they should be small in relation to total compensation and paid based on clear and transparent criteria.**

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NGO report

1. The Strategy of Prosecution Service of Georgia (PSG) was adopted in February, 2017. The document envisages increasing the role of collegial bodies, including Consultation Council

established by the Chief Prosecutor. Namely, the Council will adopt the code of ethics of PSG staff, procedural regulations on disciplinary liability and proceedings of the staff of PSG. The Council will continue its sessions and will make decisions collegially on punishment and promotion of prosecutors. However, thorough monitoring of implementation of the Strategy will be inevitable to observe how it works in practice and what are the results.

2. The implementation of this part of recommendation is also envisaged in the Strategy of PSG. Practice and implementation should be monitored.

3. See 2.

4. The part of promotion of prosecutors is not detailed in the Strategy. Clear explanation of Prosecutor's Office will be necessary.

Assessment of Progress

The Strategy of PSG was elaborated and adopted. The document gives important guarantees by shifting more powers and functions into the collective/collegial bodies. However, since the document is very recent implementation and practical results should be evaluated. Overall, there is **progress** of implementation of recommendation 13.

Recommendation 14: Transparency in the public administration

- 1. Carry out a comprehensive revision of the access to information legal provisions preferably by adopting a stand-alone Access to Information Law in line with international standards and best practice, including provisions on public interest test.**
- 2. Ratify the Council of Europe Convention on Access to Official Documents.**
- 3. Set up an independent public authority for the oversight of access to information right enforcement (as a separate institution or an office merged with the data protection authority) and assign it with adequate powers, in particular to issue binding decisions.**
- 4. Implement provisions on proactive publication of information and ensure functioning and effective public access to a centralised system for publication of court decisions.**
- 5. Carry out systematic training of information officers, including on the local level, and of other public officials dealing with access to information issues, including judges.**

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NGO report

1. Stand-alone Access to Information Law has not been adopted. Moreover the draft of the act has not been submitted to the Government for review, hence has not been initiated to the Parliament of Georgia.

In May 2017 MoJ sent Draft Freedom of Information Act (FOIA) to CSOs and other stakeholders for comments. It is notable that the draft was based on the text of the law elaborated by a working group composed of representatives from CSOs, MoJ as well as independent experts and sent to MoJ in 2014.

Major part of the guarantees included in the Act elaborated by the working group was maintained in the distributed draft. Such guarantees included establishment of the Office of Freedom of Information Commissioner, introducing administrative sanctions for the violation of freedom of information legislation and including public interest as well as the harm test in the draft law.

The draft law circulated by MoJ also included number of provisions which in case of adopting the law would result in unjustified restrictions to access public information. Such restrictions were linked with restricting access to information on high-ranking public officials, lowering the standards of the process and timeframe of disclosing public information, introducing new category of closed information – documents being in the process of elaboration, widening the scope of executive privilege and limiting the scope of information to be published proactively.

IDFI sent its recommendations to MoJ highlighting the gaps of the draft and suggesting the ways of amending it. It is crucial for the GoG to initiative to the Parliament of Georgia Draft Freedom of Information Act which will address existing gaps in legislation and introduce higher standards of accessing public information, inter alia the notion of Freedom of Information Commissioner, having the function of FoIA oversight. It is also notable, that the new AC Action Plan approved by the ACC envisages implementation of freedom of information legislation according to the OECD-ACN recommendations. In addition, according to the schedule of the action plan the draft law was supposed to be submitted to the Parliament in second half of 2017, on spring session. However, the law is not yet submitted to the parliament.

2. There is no information or the expressed willingness/readiness from the Government to ratify the Convention.

3. In draft FoIA independent authority for oversight of FoIA rules is included. However, it is important to ensure the draft elaborated by the working group is adopted with all the guarantees.

4. In 2012 the General Administrative Code of Georgia introduced the notion of proactive disclosure of information. The Code stipulates that public entities shall proactively publish information the list of which is to be regulated by a separate legal act. In 2013 GoG adopted a decree on introducing the list of information to be proactively published. The decree is applicable to central public institutions only. Even though number of self-government entities have adopted decrees regulating the topic on municipal level the issue of proactive disclosure of information remains to be highly problematic in the regions. Till to date no uniform legal act has been adopted which would regulate the process and content of proactive disclosure and be applicable to every public institution in the country. Hence it can be argued that provisions of proactive disclosure enshrined in the General Administrative Code of Georgia are still not been fully implemented.

As of to-date no centralized system for publication of court decisions has been functional in Georgia. While decisions of the Supreme Court of Georgia as well as the Constitutional Court are published on the official websites of relevant courts the practice of publishing first and second instance court decisions is rare. There is no legislation regulating the topic of publishing court decisions on a centralized system. However, in September 2015 HCOJ adopted a decision on Disclosing and Publishing Court Decision of General Jurisdiction. According to the act all decisions of the courts of general jurisdiction are to be published on the centralized system – info.court.ge. Nevertheless till to-date no progress has been made in the direction. Moreover the decision of HCOJ does not have legal effect of law. It is crucial for a chapter on Access to Court Decisions to be added in the FoIA act which would regulate the issue of disclosing court decisions in case of FOI submitted by an applicant as well as the process of publishing court decisions on a centralized system.

The Open Government Georgia's Action Plan envisages the implementation of unified procedures for publishing court decisions. According to the Action Plan those procedures will be implemented by the end of 2017. The HCoJ adopted relevant resolution. However, to date only old system is functioning on info.court.ge, that is malfunctioning.

Despite the standard of proactive disclosure of public information that exists in Georgia from 2014; however, the monitoring results of IDFI demonstrate that certain public institutions do not fulfill obligations prescribed by law. For example, since 2014 the Administration of the Government of Georgia (which itself was the initiator of the proactive disclosure legislation) does not update the information required by the law. As for the access to judicial decisions, according to the amendments in the Organic Law on the Common Courts of Georgia, a uniform system for the publication of judicial decision should have been created in January 2017. The High Council of Justice has even adopted a relevant Decree; however, currently the old system (which has technical problems and is incomplete) is still in place.

5. The new AC Action Plan envisages awareness rising activities for servants responsible on public information delivery.

Assessment of Progress

Based on the above-mentioned information, IDFI considers that there is **lack of progress** for recommendation 14.

Recommendation 15: Integrity in the public procurement

- 1. Further reduce the list of exemptions from the Public Procurement Law and substantially reduce the volume of direct contracting. Adopt clear regulations on state secret procurement.**
- 2. Formally initiate negotiations on Georgia's accession to the WTO Government Procurement Agreement.**
- 3. Include procurement in the utility sector in the Public Procurement Law or adopt a special law to encourage competition and reduce corruption in the sector.**
- 4. Ensure publication of regular and up-to-date procurement data in open data formats and free for re-use. Implement e-signature in procurement procedures and integrate e-procurement with other e-government services.**
- 5. Provide for a right to appeal against any procurement-related decisions.**
- 6. Consider separating the Dispute Resolution Board from the State Procurement Agency and paying compensation for the work of the non-governmental members of the Board to ensure its professionalism and full impartiality.**
- 7. Enhance the rules on the debarment of entities from the public procurement, in particular by introducing explicit mandatory debarment for commission of a corruption-related offence by the company or its management. Strengthen conflict of interests safeguards in the public procurement.**

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NGO report

1. The list of exemptions from the law has not been reduced, all controversial points from art. 1 (3¹) of the Law on Public Procurement have remained and debates/discussions on this matter did not take place. Furthermore, deterioration can be seen concerning removing certain procurements of the Georgian Public Broadcaster from the remits of

the public procurement legislation. Over the past 2 months, a new legislative proposal is being pushed in the parliament, according to which The Public Broadcaster will be exempt from regulations of the Law of Georgia on Public Procurement while purchasing services and goods. Only a small part of procurements will remain under the jurisdiction of the Law on Public Procurement. The volume of direct contracting has not been reduced substantially. In terms of value, direct procurement made 37% of total expenditures on public procurement, which is 3% higher than 2015. IDFI has published the policy [document](#) on Implementation Assessment of the Georgian Public Procurement Legislation.

Positive steps were made towards regulating state secret procurement. Resolution N321 of the Government of Georgia on Approval of the List of State Secrecy Related Public Procurement Objects, as foreseen by the Law of Georgia on State Secrecy, and of Procurement Procedure (dated July 11, 2016) was adopted. The Resolution provides the list of classified public procurement objects, procurement procedures and the procedure for its conduct, the rights and obligations of contracting authorities and suppliers, terms and conditions on control of award, performance and execution of contracts execution.

2. No progress was made in this regard. No news mention such developments on any of the official websites such as spa.ge.

3. Utility sector has not been included in the PPL, as it is still a part of the exception list of art. 1 of the PPL. However, adopting special law on utilities is planned as according to the Roadmap and Action Plan for the Implementation of the Public Procurement Chapter of the EU-Georgia Association Agreement.

4. The SPA has only started to prepare for creating data in open formats. With the help of the World Bank, the SPA will initially provide procurement data of 2016 in open format, gradually renewing it and updating as new procurements are made. The policy document of IDFI mentioned in the assessment of first part of the recommendation is also important for this part.

5. No change or progress in this regard, as decision to cease or stop the tender still cannot be disputed or appealed against.

6. No progress in this regard. The policy document of IDFI mentioned in the assessment of first part of the recommendation is also important for this part.

7. No progress has been made with regard to debarment procedures. The equivalent of debarment – Black List, and the grounds for being black listed remained the same.

Assessment of Progress

The list of exemptions from the law has not been reduced. According to the new Anti-Corruption Action Plan Public Procurement Agency will only provide recommendations and methodological guidance to procuring entities/authorities on conducting direct procurement. Positive steps were made towards regulating state secret procurement. The SPA has only started to prepare for creating data in open formats. No progress was shown in other parts of the recommendation. Overall, there is **lack of progress** on implementation of the recommendation 15.

Recommendation 16: Business integrity

- 1. Study business integrity risks, raise awareness and train companies and government officials about these risks and prevention measures.**
- 2. Develop capacity of the business ombudsman to promote business integrity measures.**
- 3. Implement integrity and anti-corruption plans for state- and municipally-owned (controlled) enterprises, increase their transparency by extending to them the proactive publication requirements.**
- 4. Explore the possibility of concluding integrity pacts in large publicly funded projects.**
- 5. Require mandatory disclosure of beneficial ownership in legal persons in a central register and publish this information on-line. Establish an effective liability for non-disclosure or false disclosure.**

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NGO report

1. Awareness rising on business integrity is envisaged by the new AC Action Plan. There is no information on further activities to study business integrity risks.
2. The new AC Action Plan does not cover capacity development of the business ombudsman. The representative of business ombudsman mentioned several times, during the working group meetings, that they lack capacity (including staff) to implement any action in the scope of AC Action Plan. However, in the document presented to the ACC business ombudsman presented few activities.
3. The activities for the National Agency of State Property (the main public agency that owns and manages the centrally owned SAO-s) in the AC Action Plan do not include elaboration and implementation of integrity and anticorruption plans. One of the activities covers proactive disclosure of public information and elaboration of ethics' standards for the staff of state owned enterprises. Within the project aimed at supporting the Ministry of Regional Development and Infrastructure (MRDI), the integrity and transparency strategy largely focuses on improving the integrity and accountability mechanisms in the SAOs managed by the MRDI.
4. There is no information on implementation of part 4 of the recommendation.
5. Despite IDFI's [recommendations](#) and strong advocacy on every working group meeting the Government was unable to include the activity in the AC Action Plan on disclosure of beneficial ownership in a central register.

Assessment of Progress

Based on the information provided above, there were no meaningful steps taken by the Government to implement the recommendation. There is **no progress** for the

implementation of recommendation 16.

CHAPTER 3: ENFORCEMENT OF CRIMINAL RESPONSIBILITY FOR CORRUPTION

Recommendation 17: Criminal law against corruption

1. **Revise sanctions for passive bribery to ensure that they are proportionate and dissuasive.**
2. **Approve prosecution guidelines to provide detailed guidance on how to interpret and apply Articles 332 (abuse of office) and 333 (excess of authority) of the Criminal Code. Consider revising relevant provisions to align them with the UNCAC.**

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NGO report

There is clear indication in the new AC Action Plan that the recommendation will be implemented. However, we do not have any information on the steps taken with this regard.

Assessment of Progress

There is **progress** for implementation of recommendation 17. However, the implementation of the relevant activity of the Action Plan should be carefully monitored.

Recommendation 18: Liability of legal persons

1. **Include practical training exercises focusing specifically on liability of legal persons for corruption offences in the curriculum for newly appointed investigators and prosecutors, as well as for their further in-service training. Train judges on the application of corporate liability.**
2. **Provide investigators and prosecutors with a manual on effective investigation and prosecution of corruption cases involving legal persons.**
3. **Ensure that enforcement of the liability of legal persons for corruption offences is included in the policy priorities in the criminal justice area.**
4. **Consider introducing in the legislation an exemption (defence) from liability for companies with effective internal controls and compliance programmes.**

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NGO report

1. Training for professionals working in this sphere is included in new AC Action Plan.
2. AC does not cover elaboration of manual. However, the Strategy of PSG covers trainings as well as elaboration of guideline on investigation of cases of legal persons.
3. The strategy of PSG includes liability of legal persons as one of the priority areas.
4. There is no information on implementation of part 4.

Assessment of Progress

There is **progress** for the implementation of recommendation 18. However, AC Action Plan is not approved by the GoG and is not publicly available and there is no detailed information on the implementation of the strategy of the PSG (i.e. action plan).

Recommendation 19: Foreign bribery

- 1. Conduct trainings and raise awareness among law enforcement practitioners, Georgian trade and diplomatic missions abroad and other relevant officials about foreign bribery enforcement.**
- 2. Develop guidelines on effective investigation and prosecution of foreign bribery and include prosecution of foreign bribery in criminal justice policy priorities.**

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NGO report

1. General trainings on foreign bribery for the professionals working in the sphere in the second half of 2018 is included in the new AC Action Plan.
2. There is no information on the implementation of the second part.

Assessment of Progress

There is **lack of progress** for implementation of recommendation 19.

Recommendation 20: Procedures for investigation and prosecution of corruption offences

- 1. Continue implementing the plea bargaining reform by ensuring close judicial scrutiny of agreements reached between the prosecutor and defendant, conducting extensive training for judges, prosecutors and criminal attorneys on the plea bargaining and safeguards against abuse in its application.**
- 2. Consider establishing a central register of bank accounts to facilitate tracing of criminal assets.**
- 3. Extend the definition of Politically Exposed Persons in the anti-money laundering legislation to national public officials and their affiliated persons.**

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NGO report

1. It is indicated in the Strategy of PSG that the recommendations on the circumstances to be considered during plea agreement procedure will be elaborated. The information on the planned trainings is not available.
2. No information is available on the Government efforts to implement this part.

3. No communication has taken place for implementation of this part.

Assessment of Progress

The Government did not take any steps to implement the parts of the recommendation. There is **no progress** for the implementation of recommendation 20.

Recommendation 21: Anti-corruption criminal justice bodies

1. Consider removing anti-corruption investigative powers from the Security Service and the Prosecution Service.
2. Strengthen the autonomy of the anti-corruption unit of prosecutors within the Prosecution Service.
3. Review guidelines for transferring cases from one investigative authority to another to ensure that corruption-related cases could be removed from the designated authority only on exceptional and justified grounds.
4. As the priority for increased confiscation is enforced, consider setting up a special unit/agency responsible for managing assets that may be subject to confiscation.

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NGO report

1. IDFI published policy document indicating the necessity of establishing independent Anti-Corruption Agency and describing the challenges in the institutions working on prevention of corruption, including State Security Service, PSG, etc. The GoG have not communicated the plan to remove anticorruption investigative powers from SSS and PSG.
2. The GoG did not communicate the plan to strengthen the autonomy of the anticorruption unit of the PSG.
3. The Strategy of the PSG includes revision of the guidelines of investigation and prosecution procedures.
4. No communication has taken place on the implementation of this part of recommendation.

Assessment of Progress

Only the part of revision of guidelines was reflected in the Strategy of the PSG. There is **no progress** to implement recommendation 21.

CHAPTER 4: PROCUREMENT FOR INFRASTRUCTURE PROJECTS AT THE NATIONAL AND LOCAL LEVEL IN GEORGIA

Recommendation 22: Procurement for infrastructure projects

- 1. Develop and include in the Law and e-Procurement system competitive procurement procedures that ensure efficient coverage of infrastructure projects, including turn-key and Design-Build-Operate contracts.**
- 2. Adopt a comprehensive law on Public-Private Partnership/concessions, providing for a competitive selection of concession holders or operators.**
- 3. Approve a comprehensive set of contract terms and conditions templates for infrastructure projects, as well as guidance for their use.**
- 4. Introduce a comprehensive quality control system for contract management critical decision making and overall supervision of works.**
- 5. Implement knowledge sharing/education programmes for public sector organisations (their staff) involved in infrastructure project development and implementation.**

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NGO report

1. Special procedure for infrastructure projects' related procurements have been adopted. The procedure is based on the principle of pre-qualification. The bidders submit proposals, qualification documents, and cost breakdown. After evaluating all bidders, if tender terms and conditions are met, contracting authority can invite the bidder with the lowest proposal price, to sign the contract. However, no progress was made in terms of introducing design-build-operate contracts, as legal procurement framework for concession/PPP and turn-key contracts in Georgia is at its initial development stage.

2. No significant progress was made in terms of adopting a more comprehensive law on public-private partnership. The Law of Georgia "On the Procedure for Granting Concessions to Foreign Countries and Companies" still requires to be improved regarding the scope of application, as it contains very few provisions regarding the selection of the concessionaire. Hence, the problem of concessionaires being chosen directly remains the same.

3. IDFI has no information on this point.

4. IDFI has no information on this point.

5. IDFI has no information on this point.

Assessment of Progress

Despite the recommendations of IDFI to include prevention of corruption in infrastructure projects there is no activity in the new AC Action Plan presented to the ACC. There is **no progress** for implementation of the recommendation 22.