



**Institute for Development
of Freedom of Information**

IDFI's Recommendations for the 2021-2022 Open Government Georgia Action Plan

**Institute for Development of Freedom of
Information (IDFI)**

2020

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1. Joining Extractive Industries Transparency Initiative - EITI the global standard / accession and implementation / application of standards (JOINT STAR COMMITMENT ☆)

Georgia is a rich country in terms of natural resources and depends on foreign investments. If the state is willing to become more attractive to investors towards mining industry, it should join the EITI. Based on OGP, states in the region, such as Ukraine and Armenia, have intensified their efforts to make information concerning mining industry, including beneficial ownership, open and transparent. Increased transparency means increased trust and more investments that contributes to strengthening the state economically and technologically. EITI is a network of specialists in the mining industry that is able to improve licensing practice, registration of transactions and the tax payment system.

Responsible Agency: Ministry of Economy and Sustainable Development

2. Establishment of beneficial ownership register of overseas entities (JOINT STAR COMMITMENT ☆)

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

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

During the 2016 London Anti-Corruption Summit, Georgia presented a Country Statement, where it committed to exploring the issue of creating a registry of beneficial owners of foreign companies. However, it is unknown whether the Government of Georgia made any efforts in this area. **IDFI recommends Georgia to commit to establishing a registry of beneficial owners of foreign companies, which will be available online and trackable in real-time.**

3. Citizens' Participation in Public Policymaking

There are various mechanisms of engagement citizens and stakeholders in the process of public policymaking in Georgia. The abovementioned regulations cover only general provisions, are scattered throughout various legislative acts, and there does not exist any specific agency responsible for monitoring their implementation. As a result, the existing regulations and the practice based on them does not ensure the minimum standard of citizen involvement in the process of public policy development process. Hereinafter, it is essential to:

- Develop unified standard of citizen engagement in the policy-making process, make the standard mandatory from the very initial stage of policy-making, i.e., Before the process of working on the text of the policy document begins and the main directions of the specific policy are being discussed.
- Set up unified website for public consultations (following to the EU / European Commission standard), where information on current and completed consultations on various topics will be available online. Information on the ongoing consultations should include: the issue of discussion, brief description of the issue, the purpose of the consultation, the target audience and the process of presenting opinions. Hereby, if any, ex-ante regulatory impact assessment should also be available.
- In order to conduct direct targeted consultations with unions, associations and civil society organizations, a unified database of stakeholders should be established. This database must be publicly available, should be published on the Unified Public Consultation Website and proactively updated in case of any amendments.

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

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

IDFI recommends reviewing the existing Government Decree and broadening the list of information that has to be disclosed proactively - bearing in mind greater detailing and improvement of disclosed information (detailed publication of composite information, disclosure of information relevant for public interest – the three FOI Requests Principle). In addition, IDFI recommends adding to the Decree an obligation to disclose the listed information in an open data format, on the data.gov.ge portal.

4.1 Access to state funding of sports federations

In order to ensure transparency of state funding for sports federations, access to their financial reports should be provided. Furthermore, establishment of a unified standard of transparency for federations following international standards - EU standards and Play the Game criteria.

Responsible Agency: The Ministry of Education, Science, Culture, and Sport of Georgia.

4.2 Proactive publication of the list of databases registered in the Unified State Register

Unified Proactive publication of the list of databases registered in the Unified State Register (list and metadata of the database) and periodic updates.

Responsible agency: Data Exchange Agency

4.3 Proactive access to registered applications and the amount of funding issued under referral and other health care programs

Proactive access to registered applications (except for personal data) and the amount of funding issued under referral and other health care programs (upon which the decision on the amount of funding is made by a specially established commission).

Access to information concerning the application and the amount of funding issued under the program would allow potential beneficiaries and other stakeholders to find out more information on the current practice and the amount of funding for individuals with similar medical needs.

Accessibility of this kind of information will, on the one hand, ensure relevant advance expectations for the potential beneficiaries towards the amount and the opportunities of funding and on the other hand will significantly reduce the risks of unreasonable allocation of funding resources by the commission.

4.4 Publication of all decisions made during the disciplinary proceedings of judges (by covering the identifying data of the parties)

As of today, decisions on termination of disciplinary proceedings are published as well as the decisions taken by the Disciplinary Committee and the Disciplinary Chamber. However, the conclusions prepared by the independent inspector along with the decisions regarding imposing disciplinary liability are not publicly available. In order to ensure increased transparency of the process of disciplinary proceedings. It is recommended to publish the abovementioned information on the website (identifiable data coverage, as of the disciplinary proceedings are confidential).

Hereby, setting up a unified database including the functions of filtering and searching would be recommended; conclusively, instead of searching for separate decisions made by independent

inspector, or disciplinary committee/board/collegium through the different websites, uniform platform would make concrete decisions easier to follow (filtered by date, type of conduct, confirmation / non-confirmation disciplinary action).

4.5 Open Environment System

Proactive disclosure and monitoring of mandatory public information. For example, annual research of river Mashavera, Liakhvi or any other river, population based air pollution exposure, openness of information concerning violations of law – for instance, disclosure of the companies responsible for illegal disposal of waste into water, reported poaching cases into strict nature reserves and etc. [Ukraine has a similar commitment in the 2018-2020 Action Plan.](#)

4.6 Access to information on cultural events (planned events, funding criteria, etc.)

Significant funds are spent on various cultural events from the state budget of Georgia. Information concerning such events is less accessible in terms of both, the state agencies (Ministry, Municipality, LEPL, NNLE, etc.) receiving the service and the service provider companies, which significantly increases the risks of mismanagement of funds towards similar direction.

It is important to develop a web portal where detailed information about planned and implemented cultural events will be posted in a unified format. In particular, the purpose of event planning, funding criteria, information about selected companies, etc.

4.7 Proactive access to the information on procurements from reserve funds

Proactive access to the information on procurements from **reserve funds** that are not covered by the Law on Public Procurement.

4.8 Proactive publication of the decisions of the Plenum of the Supreme Court on the website

In frames of current legal framework, decisions of the plenum are not proactively published on the Supreme Court website, this represents a significant shortcoming. Besides the fact that the minutes of the court hearings and the plenum decisions are available upon request as a public information, in order to improve the transparency of the activities of the plenum, it is advisable to proactively publish decisions on the website of the Supreme Court.

4.9 Implementation of a unified statistical production in the court system and publication of statistical information in Open Data format

Statistical production principle through the court system is defective and unified methodology is not followed. The methodology of processing and analyzing statistical information is not under-developed.

Court statistical data is less user-oriented. It is recommended to introduce a methodology of the unified production of statistics and to refine the forms of statistical data, including in the open data format. (This was also provided for in the Judicial Strategy and the Action Plan).

5. Increasing the transparency of the public procurement system

The Georgian law on public procurement does not regulate issues related to subcontractors. The law does not provide for the notion of a subcontractor, and higher information transparency standards do not apply to the subcontracts concluded as a result of public procurement. Consequently, a significant part of the information related to public procurement remains behind the electronic portal - procurement.gov.ge.

Lack of transparency about subcontractors carries the risk of corruption and unscrupulous transactions. Subcontracting may be used to avoid identification the facts of conflicts of interest, to split contracts by economic operators and to artificially increase prices. The lack of access to information about subcontractors makes it difficult to detect and respond to such actions.

Access to information concerning the subcontractors is challenging in most countries of the world due to the lack of political will, as well as due to the lack of electronic public procurement systems. Though, Georgia does have relevant experience, technical (Unified Electronic Procurement System), as well as professional resources to ensure transparency of information about subcontractors with no excess problems and at no extra cost.

IDFI recommends that the Government of Georgia and the LEPL State Procurement Agency to develop legal amendments that would define the concept of subcontractor in the Law on Public Procurement and other by-laws regulating procurement and disseminate existing high-transparency standard on sub-contracts.

6. Publication declarations of public officials in Open Data format

Creating a platform www.declaration.gov.ge was important in terms of providing access the declarations of property of the public officials. The platform was considered as one of the most successful examples at the time of its creation. This is proved by the fact that in the 2013 UN Public Service Awards, this portal won in the category: "Preventing and combating corruption in the public service". However, in line with the development of technology, transparency standards and capabilities are further enhanced. In order to make it simpler for various stakeholders to search, process, and analyze information about public officials, it is important to have access to their property declarations

in an open data format. Currently the property declarations on www.declaration.gov.ge are published in PDF format, which does not meet the standards of open data. Due to the fact that officials fill property declarations online and in a standardized format, their publication in open data format is not associated to large resources.

7. Access to Archival Records

It should be noted that among the Eastern European countries, Georgia has one of the most restrictive regulations on access to archival records. This issue is also problematic given that the public, especially those interested in historical or Soviet research, face various obstacles towards getting acquainted with archival materials and leading relevant analysis of the past.

In order to increase the availability of documents of the National Archival Fund, it is necessary to:

- Ensuring access to documents containing state secrets kept in the National Archives of Georgia in case of substantiated scientific-research purposes;
- In case of scientific-research purposes and / or public interest, removal of the restriction on the access to personal data (including special category personal data) in the documents preserved in the LEPL National Archives of Georgia and the Archives of the Ministry of Internal Affairs;
- Prohibition of restriction on photo-video recording of documents in the National Archives of Georgia and the Archives of the Ministry of Internal Affairs of Georgia, in cases when the applicant was admitted to the document in order to get acquainted with it.



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