



PERFORMANCE AUDIT REPORT





State Audit Office

“APPROVED BY:”

Head of Performance Audit Department

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Developing Anti-Corruption
Environment in the Country

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ABBREVIATIONS AND ACRONYMS

Anti-Corruption Council – Interagency coordination council for fighting the corruption.

Anti-corruption framework document – for the audit purposes the term implies institutional and legislative framework, as well as those mechanisms and regulations, which are aimed at corruption prevention.

Secretariat – secretariat of the Anti-Corruption Council, Analytical Department of the Ministry of Justice of Georgia.

Working group(s) – working groups of experts established under the Anti-Corruption Council.

Strategy and Action Plan – National Anti-corruption strategy and action plan for implementing the strategy.

Crime detection – revealing assumed person/persons by the investigation entities who committed crime.

Bureau – LEPL Civil Service Bureau.

SSS – State Security Service.

MIA – Ministry of Internal Affairs.

TI – “Transparency International – Georgia”.

IDFI – Institute for Development of Freedom of Information.

GYLA – Georgian Young Lawyer’s Association.

OECD – Organization for Economic Cooperation and Development.

UNCAC – UN Convention against Corruption.

IDI – INTOSAI Development Initiative.



SUMMARIZING OVERVIEW

Development of sound anti-corruption policy and its successful implementation is one of the prerequisites for securing the public administration reliability and efficiency.

It is notable that Georgia has made significant progress towards fighting the corruption, what is reflected in many international ratings and surveys.

In 2008, Georgia has joined UN anti-corruption convention and EU association agenda that envisages further improvement of anti-corruption mechanisms. The process of building institutional capacity of the organizations engaged in fighting the corruption and approximation with the better international practice continues.

State Audit Office, with the aim to prevent corruption has conducted performance audit of the measures exercised in the public sector covering the period from 2015 through the first half of 2018.

In the scope of the subject audit, 2 key institutions have been studied according to anti-corruption framework, which, within the scope of own competence, are responsible for implementing anti-corruption measures at the national level: Anti-Corruption Council (in the part of the Ministry of Justice and Secretariat – planning policy, entities coordination and monitoring) and LEPL Civil Service Bureau – (issues related to the ethics of the public servant and declarations).

The purpose of the audit is to evaluate efficiency and productivity of the state policy and undertaken measures aimed at corruption prevention.

In the opinion of the State Audit Office, corruption prevention measures at the national level require improvement and are characterized by the following shortcomings:

- Basic procedures and mechanisms necessary for prevention of corruption are not thoroughly implemented at the public sector, which would facilitate practical implementation of the requirements established by the law. In particular, at 11 entities selected in the scope of the audit from the public service, corruption risks are not systematically evaluated and control mechanisms are not introduced, in order to prevent and reduce risks. Also, there are no sound mechanisms for practical management of the issues related to disclosure of the unethical conduct in the public sector, accepting valuable gifts, exposure and other significant issues.
- Consequently, at the above-indicated 11 organizations, the indicator of disclosing corruption risks and unethical conduct is insignificant, what, on the other hand, complicates evaluation of the actual situation.
- Civil Service Bureau does not impose monitoring on development and introduction of the code of ethics at the public sector. Correspondingly, shortcomings are not identified and their response measures are not reflected in the action plan.



- In the process of developing anti-corruption strategic plan, the evaluation of the risk by the council did not fully cover the public sector: in particular, by 2015, out of 16 ministries, only 8 were members of the Anti-Corruption Council¹. Correspondingly, in the process of development of the strategic and action plans of the Anti-Corruption Council² non-member ministries did not evaluate risks existing in the sphere of their governance and did not communicate with the council.

Also, in the period of audit, risk evaluation methodology document was not finalized, which would facilitate the parties engaged in the risk evaluation to assess corruption risks homogeneously.

Statistical information on corruption offence is requested by the secretariat as needed. Accordingly, regularly updated, fully and homogeneous statistics are not produced on corruption offence, which would allow stakeholders to analyze corruption offence from different prospective (regional, institutional and occupational distribution, indicator of investigation etc.). Based on the statistics collected from the particular entities by the audit team, about 70% of registered corruption offence is attributed to the regions, however, out of 62 municipalities only 3 were involved in the activities of the council in 2018 (In 2019, 13 municipalities were included in the council). Also, 2 researches held by the secretariat in the audit period, do not fully cover the analytical research needs in terms of corruption prevention.

- Out of the targets envisaged by the action plans of the Anti-Corruption Council,³ 34% were not fully accomplished, which does not give sufficient information on the status of implementation of the measures; in some cases, evaluation indicators are of general nature.

With the aim to eradicate above-indicated shortcomings and approximate the corruption prevention system in the public sector with the best international practice, the State Audit Office has issued the following recommendations:

THE CIVIL SERVICE BUREAU:

- For the purpose of conducting sound analysis of the public servant ethics and conduct rules application/introduction in practice, should conduct monitoring of practical application of the code of ethics, also monitoring of development and practical application of the rules of conduct of the public servants, should ensure analysis of the indicated information and reflection of the improvement needs in the action plan.

¹ Thematic working groups are composed of the council members, which, on the other hand, determine strategic priorities in the spheres of their competence.

² This finding is topical for the following period policy documents. Out of 11 Ministries effective in 2019, 8 are members of the Anti-Corruption Council.

³ Targets are sub-components of the measures to be exercised.



MINISTRY OF JUSTICE/SECRETARIAT:

- With the aim to develop maximally effective strategic and action plans, which shall adequately respond to the challenges of corruption prevention existing in the country, should ensure engagement and coordination of all stakeholders, implying:
 - Their participation in risk evaluation process.
 - Proactive use and analysis of statistics collected by various entities while developing the action plan.
- In order to evaluate risk at the public sector, shall ensure development approval and introduction of the risk evaluation methodology, also implementation of the analytical researches.
- For evaluating action plan and achieved results of the Council, shall ensure determination of targets and outcome indicators so that the evaluator shall have the opportunity to identify completeness of exercised measures and measure achieved result.

1.



1. INTRODUCTION

1.1 MOTIVATION OF THE AUDIT

Corruption with its essence is the abuse of power for gaining the personal benefit.⁴ Corruption reduces trust of public towards the state, creates hazard to the supremacy of the law, increases poverty and weakens institutional capacities. Eradication of the corruption is necessary for maintenance of the economic stability and development, for safety, human rights and environment protection for reduction of poverty and offence.⁵

The necessity of fighting corruption in the country was emphasized by the commitment undertaken in the scope of EU association agreement, according to which the following are required:

- Fighting corruption in the country and improvement of the preventive mechanisms;
- Continuation of the national anti-corruption strategy and action plan implementation;
- Reinforcement of the mechanisms needed for prevention of the conflict of interests etc.

Also, in 2018 Georgia has become the chairman country of the “Open Governance Partnership” one of the key priorities of which is to fight corruption.

State audit organizations can significantly contribute to corruption prevention by reinforcing fiscal transparency, ensuring compliance of the budget process with the law and making audit results public.

In an effort to strengthen institutional capacity of the indicated organizations in terms of fighting corruption, the INTOSAI Development Initiative – IDI exercises the international project - **The Global Programme on SAI Fighting Corruption 2015-2020**.⁶

The subject audit was held in the scope of the above-indicated project in a form of the International Parallel Audit⁷ which envisages evaluation of the anti-corruption environment at own countries by the Supreme Audit Institutions participating in the project and producing the uniform report.

1.2 PURPOSE AND KEY QUESTION OF THE AUDIT

In the framework of the audit, anti-corruption environment of the country has been studied, mechanisms created by the state in this direction and the implemented measures, which are aimed at prevention-reduction of the corruption risks at the institutional level.

4 World Bank; the Civil Law Convention on Corruption by the Council of Europe; Transparency International, Anti-Corruption Glossary.

5 Anti-Corruption Summit – London 2016, Communiqué, May 12, 2016.

6 <http://www.idi.no/en/idi-cpd/sai-fighting-corruption-programme>.

7 In which more than 60 INTOSAI member states participated.



For this purpose, audit has responded to 2 questions:

- How efficient is the anti-corruption framework existing in the country to ensure corruption prevention?
- Does the Anti-Corruption Council have effective mechanisms to exercise activities with due quality?

In the process of responding to these questions, shortcomings regarding the subject of the audit review have been identified and respective recommendations have been prepared, implementation of which will facilitate efficiency of the corruption prevention mechanisms and their rapprochement with the better practice.

1.3 EVALUATION CRITERIA

Main sources of criteria used in the report are:

- Law of Georgia “On Conflict of Interests and Corruption at the Public Institutions” and other relevant legislative acts;
- Anti-corruption strategy and the action plan;
- Charter of the Anti-Corruption Council, internal regulations and reports;
- Evaluation reports of the international organizations (OECD, GRECO, TI);
- UN Convention against the Corruption (UNCAC);
- Manual on protection of whistleblower.

1.4 SCOPE OF AUDIT AND METHODOLOGY

Audit covers the period from 2015 through the first half of 2018. In the scope of audit, the following has been studied:

- The process of practical introduction of the anti-corruption framework;
- Existing mechanisms for cooperation and information sharing of the bodies involved in the corruption prevention;
- Prerequisites, which are necessary for efficient functioning of the Anti-Corruption Council.

Objects of the audit:

- **Ministry of Justice of Georgia** – chairman of the Anti-Corruption council is the Minister of Justice, Analytical Department of the Ministry of Justice exercises the activities of the secretariat of the Council;
- **Civil Service Bureau** – within the scope of its activities, supports and is engaged in enforcement of the anti-corruption policy of the country.

Delimitation: anti-corruption activities exercised by the individual ministry or other state organization at the level of particular organization has not been studied in the scope of the audit.



Also, audit does not directly deal with disclosure of the corruption offence and functions of investigation.

METHODOLOGY:

For the purpose to become familiar with the activities of the structures operating in the sphere of audit the interview has been conducted with the representatives of the Anti-Corruption Council, secretariat, Civil Service Bureau, entities furnished with the investigation functions and NGOs.⁸

The group followed effective anti-corruption legislative norms, for which has studied respective legislative base.

Anti-corruption Council and Secretariat

Inasmuch as UN Convention against Corruption determines main components of the national anti-corruption system, this document has been used as a general criteria, and anti-corruption framework document of Georgia has been analyzed following OECD evaluation reports and thematic documents.

In order to assess the activities of the Anti-Corruption Council (in the part of Ministry of Justice and secretariat), the following key documents have been studied:

- Anti-corruption strategy and action plan;
- Annual reports of the activities of the Anti-Corruption Council;
- Progress reports on implementation of the anti-corruption action plan;
- Monitoring and evaluation reports of implementation of the anti-corruption action plan;
- Monitoring framework of anti-corruption action plan;
- Guideline principles of leading activities of the Council, minutes of the meetings of the Anti-Corruption Council.

Civil Service Bureau

The audit team has studied activities of the Civil Service Bureau with regard to monitoring of property declaration of Government officials, also with regard to introduction of the public sector ethics and the general conduct rules.

To this extent obligations of the Bureau envisaged by the anti-corruption strategy action plan, annual reports of the Bureau, code of ethics and guidelines prepared over various issues have been studied.

⁸ Ministry of Internal Affairs, State Security Service, Office of the General Prosecutor Georgia, IDFI, GYLA.



Questionnaire of the Entities

In order to study disclosure of violations of corruption prevention mechanisms and ethics, norms regulating incompatibility of interests and corruption, the audit team, on the basis of relevant Articles of the law “On Public Service” and “Conflict of Interest and Corruption in Public Service”⁹ has prepared a questionnaire, which had been sent to 11 organizations.¹⁰ Audit team took into consideration the following factors while selecting the organizations:

- Organizations whose audit results were sent to the Prosecutor’s Office by the State Audit Office due to presence of possible signs of offence envisaged by the Criminal Code;
- Large spending organizations, local self-governing cities and those LEPLs which provide different services to the state, physical and legal entities;
- Audit objects pertaining to different spheres entered in the audit plan of 2018 by the State Audit Office as a result of risk evaluation.

Statistics of Corruptive Offence

Audit team has conducted quantitative analysis of the cases received from the Analytical Department of MIA filed by the competent bodies in 2015-2017 through May 2018 and their opening statuses under respective Articles of the Criminal Code.¹¹

The State Audit Office has asked respective bodies who are responsible for investigation of each case to confirm the above-indicated information.¹²

With the object of regional distribution of the corruptive offence, audit team used the base provided by the Analytical Department of the MIA on the basis of which territorial distribution of more than 1000 cases has been determined. Due to lack of generally accepted classification of the corruptive offence, classification of these articles as corruptive offence has been done based on OECD – “Anti-Corruption Reforms in Georgia” fourth round evaluation report and agreed opinion with respective security forces.

9 See annex N3.

10 To the Ministry of Regional Development and Infrastructure, Ministry of Defense, Ministry of Internally Displace Persons from the Occupied Territories, Labour, Health and Social Affairs, LEPL – Service Agency of the Ministry of Internal Affairs. To LEPL Revenues Service of the Ministry of Finance, LEPL – Service Agency of the Ministry of Finance, LEPL – Agency for Emergency Management, Kutaisi Municipality City Hall, Rustavi Municipality City Hall, Poti Municipality City Hall, Tbilisi Municipality City Hall.

11 Crime envisaged by the “Criminal Code of Georgia”, according to Articles 1641, 182, 194, 220, 221, 332, 333, 337, 338, 339, 3391, 340, 341, 355. For more details see annex 2.

12 In the scope of the procedure, request was sent to the General Prosecutor’s Office of Georgia to confirm completeness and accuracy of the data related to investigated cases, however the information has not been confirmed by them.

2. GENERAL INFORMATION

2.1 ANTI-CORRUPTION PRACTICE

According to the guidelines of the independent commission for fighting the corruption, state anti-corruption policy should accumulate regulations and mechanisms existing in this direction, determine respective goals and respective measures for reduction of the corruption risks at the responsible public entities.¹³

UN Convention against Corruption¹⁴, which was enforced in 2005, taking into consideration its approaches, is the universal standard and covers wide spectrum of anti-corruption issues, among them: corruption prevention, corruption criminalization, international cooperation and reimbursement of assets generated as a result of the corruption.

According to this convention, its signatory countries¹⁵ are committed to introduce such specialized institute(s), which will be responsible for corruption prevention and fighting through the law enforcers.

Preventive functions may include the following functions or their part:

- Ethical norms and in case of their breach, introduction of respective disciplinary responsibility (measures);
- Prevention of the conflict of interests;
- Introduction of the property declaration mechanisms, their monitoring and publicity;
- State financial control;
- Anti-money laundering mechanisms;
- Regulations on public procurements and license/permit issuance;
- Availability of public information;
- Monitoring and control of funding political parties¹⁶.

In addition, the agency specialized in the corruption prevention has significant responsibility in terms of developing and monitoring anti-corruption policy, exercising respective researches in this direction, as well as facilitating education and awareness of the public and public servants.

¹³ Independent Commission against Corruption – Public Sector Anti-Corruption Framework Manual. 2009.

¹⁴ UNCAC.

¹⁵ Georgia has joined this convention in 2008.

¹⁶ Specialized Anti-Corruption Institutions, Review of Models, Anti-Corruption Network for Eastern Europe and Central Asia, OECD, p. 10.

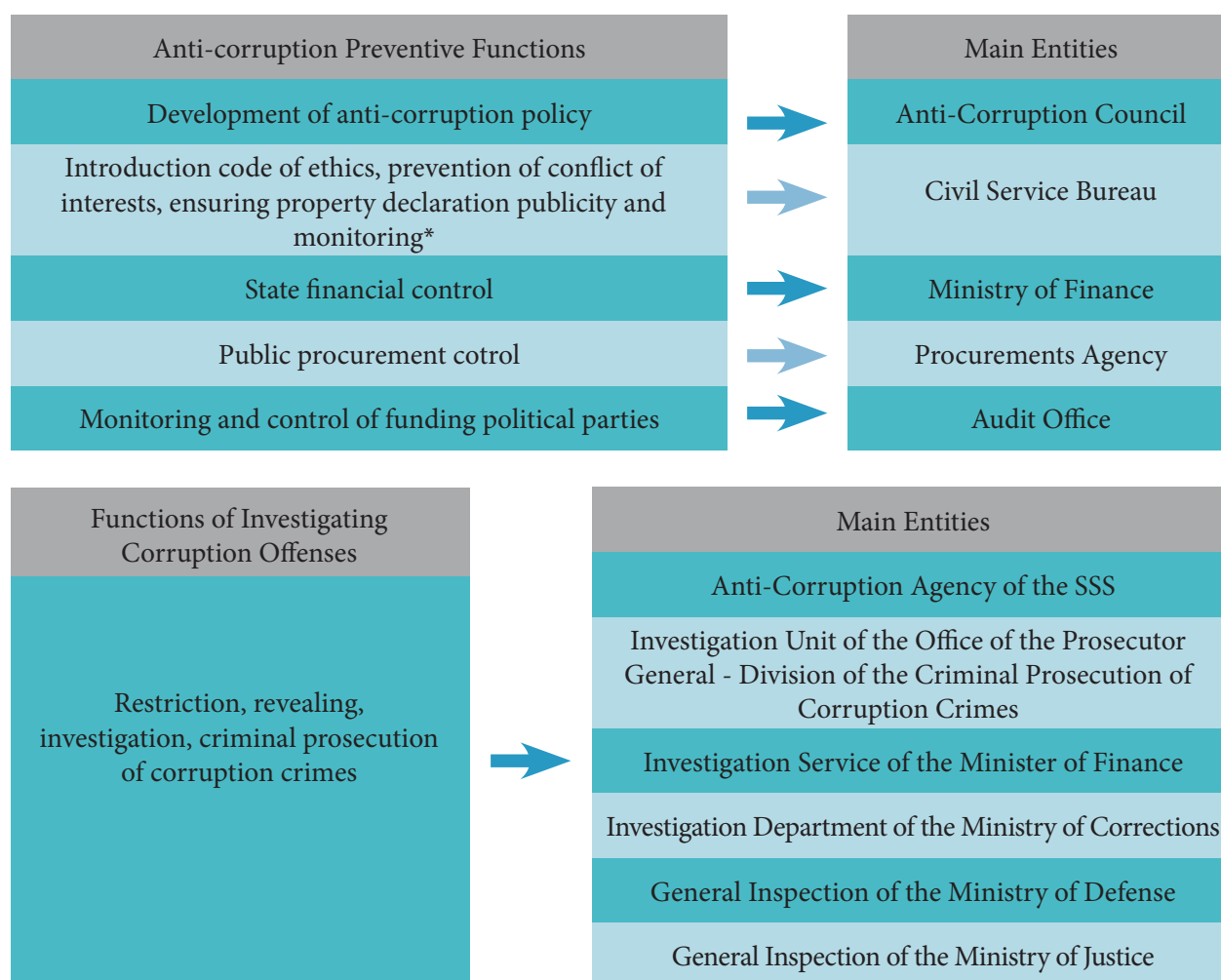


2.2 ANTI-CORRUPTION INSTITUTIONAL FRAMEWORK IN GEORGIA

The function of fighting corruption in Georgia is distributed among various state organizations. Bodies furnished with the corruption prevention and corruption offence investigation functions may be segregated from those.

The diagram below shows those entities which are furnished with significant anti-corruption functions.

Diagram 1. Anti-Corruption preventive and investigation functions



* Comment: according to current regulations, authority of the Civil Service Bureau includes ensuring property declaration publicity and monitoring.

STATE ENTITIES FURNISHED WITH CORRUPTION PREVENTION FUNCTION

In practice, corruption prevention may include many regulations and be related to many state entities, however, due to the interests of the audit, the report covers those preventive measures which are assigned to the specialized agencies for corruption prevention. These are:

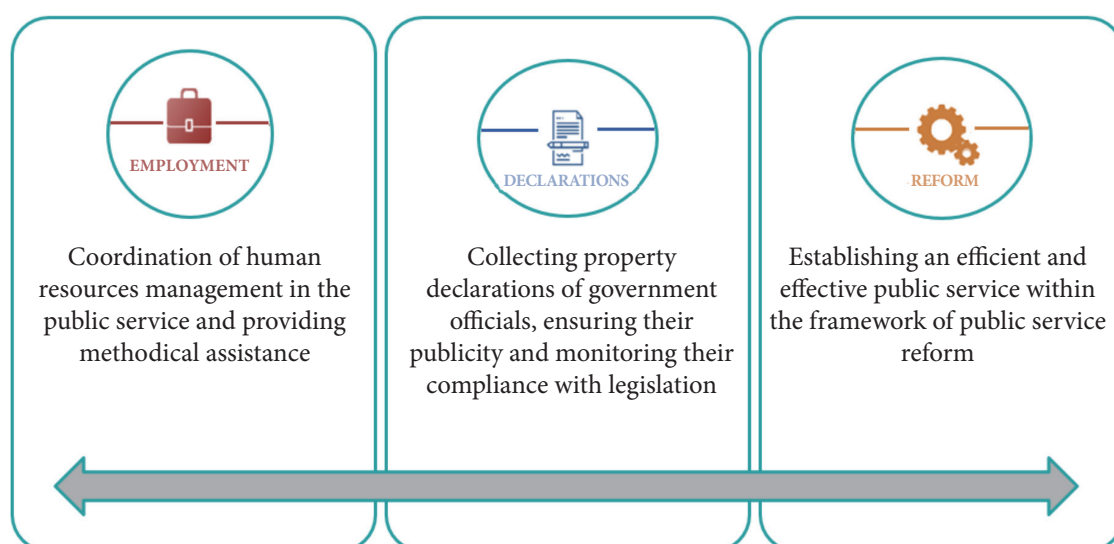
- Exercising researches of corruption;
- Evaluating corruption risks;
- Monitoring and coordination of state anti-corruption strategy and action plans;
- Evaluation and preparation of respective legislation;
- Monitoring of regulations related to conflict of interests and property declaration;
- Development and introduction of the code of ethics;
- Training of public officials;
- Supporting international and public cooperation¹⁷.

Basic part of the above-indicated functions is distributed between two significant entities in Georgia – Civil Service Bureau and interagency coordination council for Fighting Corruption (hereafter – Anti-Corruption Council).

Civil Service Bureau

LEPL – main directions of the Civil Service Bureau (hereafter – Bureau) activities are:

Diagram 2. Key directions of the Bureau activities



In the scope of its activities, Bureau is supporting anti-corruption policy of the country, among them, the functions of the Bureau include:

Developing draft ethical and disciplinary norms for the public officials:

- Participating in the process of development and implementation of the state programs as well as particular measures for fighting corruption at the public services;
- Receiving, storing property declarations of the public officials, monitoring their publicity and compliance with the legislation¹⁸.

¹⁷ Specialized Anti-Corruption Institutions, Review of Models, Anti-Corruption Network for Eastern Europe and Central Asia, OECD, p. 33.

¹⁸ Law of Georgia "On Conflict of Interest and Corruption in Public Service", art. 12, part 2, clause "U".

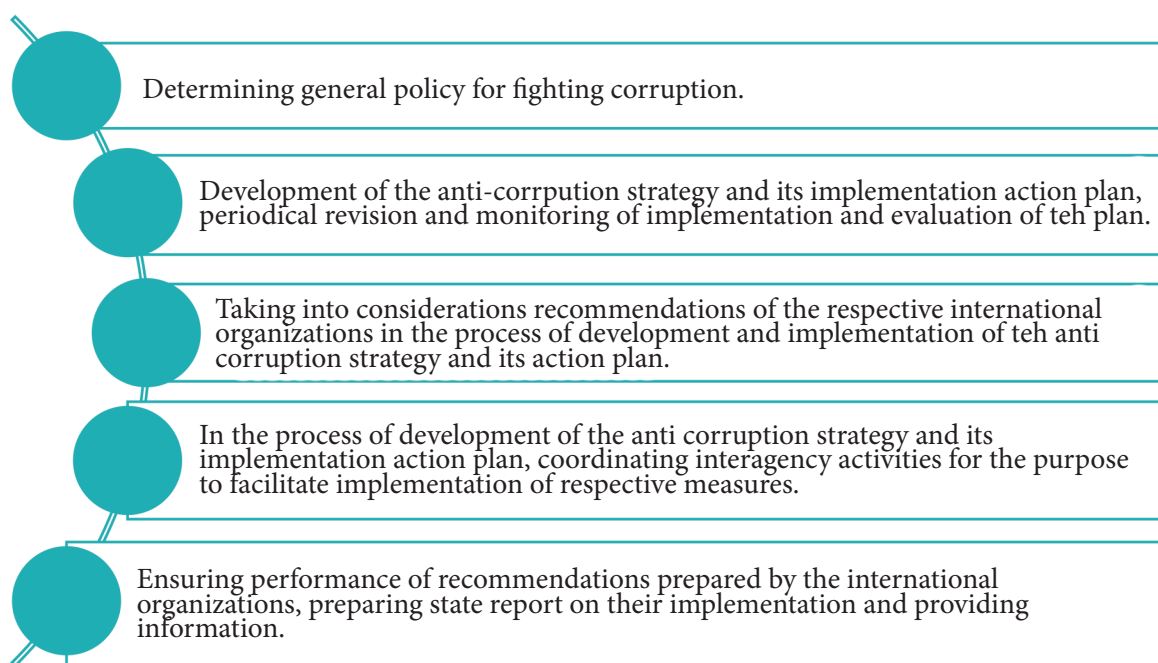
INTERAGENCY COORDINATION COUNCIL FOR FIGHTING CORRUPTION

Interagency coordination council for fighting corruption (hereafter – Anti-Corruption Council) was established in 2008 for the purpose to facilitate development of the anti-corruption state policy in the country and fight corruption in a coordinated manner.

The composition of the council is determined by the GoG and in addition to the state body representatives, its members may be NGOs and international organization representatives, independent experts, also, representatives of the non-commercial legal persons performing activities in the respective field and the scientists.¹⁹

As of 2018,²⁰ there are 55 members of the council, out of which 17 are NGOs and international organization representatives, 6 from local self-government. Minister of Justice is the chairman of the Anti-Corruption Council.²¹ Main tasks of the council are:

Diagram 3. Main tasks of the Anti-Corruption Council



Activities of the Anti-Corruption Council are distributed among three main entities: the council itself, secretariat of Anti-Corruption Council (secretariat) and experts working group (working group).

¹⁹ Law of Georgia "On Conflict of Interest and Corruption in Public Service", Article 121, clauses: 3, 4.

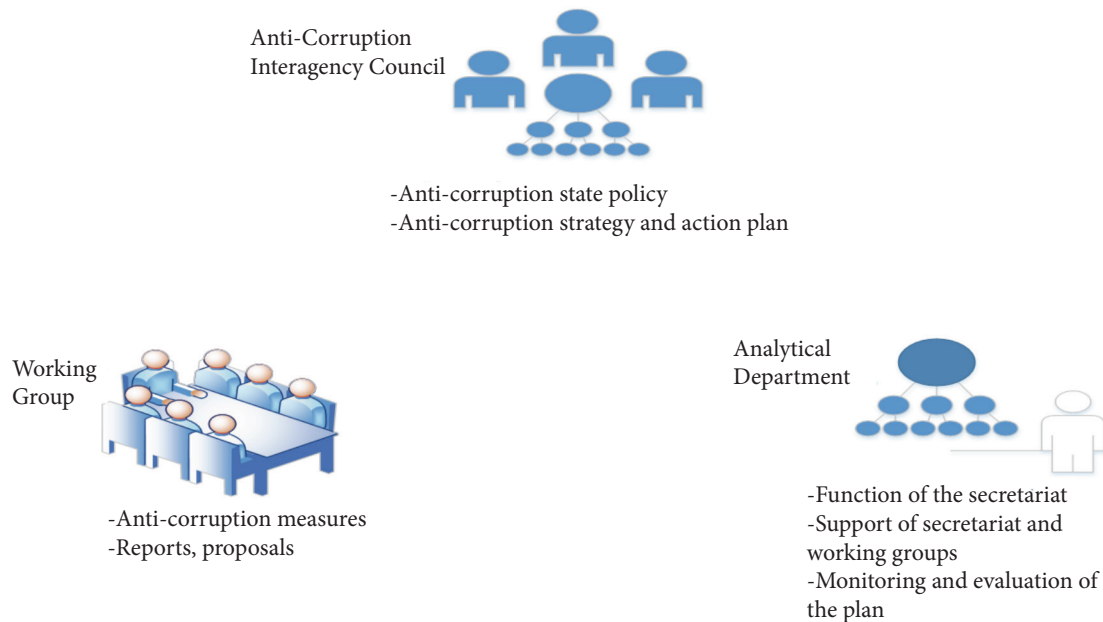
²⁰ May 2018.

²¹ Resolution of GoG as of December 30, 2013 №390 "On Approval of the Composition and Charter of the Inter Agency Coordination Council for Fighting Corruption", Article 1.

The function of the secretariat is assumed by the Analytical Department of the Ministry of Justice, which ensures analytical and organizational support of the working groups established under the Anti-Corruption Council and itself, also administers activities of the Anti-Corruption Council.

Working groups established under the Anti-Corruption Council are composed of the representatives from the state entities, NGOs and private sector. Unlike from the Council, which is mainly composed of the deputy ministers (higher circle), the group of experts include officials of the intermediary unit. Meetings of the working groups, due to its specifics, are more intensive than the council meetings.

Diagram 4. Anti-Corruption Council structure and functions



According to Anti-Corruption Council charter, meetings of the council are held at least twice a year.²²

DEVELOPMENT OF ANTI-CORRUPTION STRATEGIC DOCUMENTS

The purpose of anti-corruption strategy is to develop and introduce uniform anti-corruption policy. Consistent with the priorities determined based on this document, strategy implementation action plan is being developed.

For achievement of the goals set out in the strategy, the action plan envisages the following:

- Priorities;
- Performance indicators;
- Anticipated results and risks;
- Tasks and targets;

²² Resolution of GoG N 390 as of December 30, 2013 "On Approval of the Composition and Charter of the Anti-corruption Inter-agency Coordination Council", Article 6, sub clause 3.

- Implementing and partner organizations;
- Financial resources;
- Performance time for each target.

Anti-corruption strategy along with the action plan is renewed once in 2 years. In the process of developing these documents, representatives of Anti-Corruption Council member organizations, donor/international organizations, NGOs sector and independent experts are involved. In the format of the working group, representatives of the above-mentioned organizations develop those measures, which during upcoming 2 years will be implemented in the scope of eth anti-corruption action plan. Developed documents shall be submitted to the Anti–Corruption Council for approval.

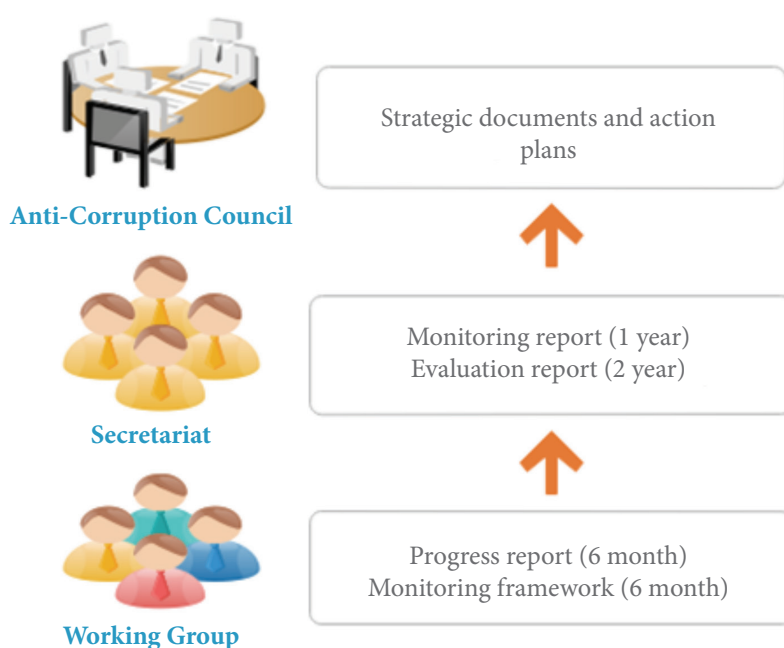
MONITORING AND EVALUATION OF ANTI-CORRUPTION STRATEGIC DOCUMENTS

The secretariat has also developed methodology for monitoring and evaluation of the anti-corruption strategic documents²³ which aims at evaluating the implementation process of the activities envisaged by the anti-corruption strategy and by its implementation action plan, also achieved results, their efficiency and revealing existing shortcomings.

Monitoring and evaluation mechanism includes 3 components:

1. Report on progress and framework for anti-corruption action plan monitoring;
2. Monitoring report;
3. Evaluation report.

Diagram 5. Anti-Corruption Council reporting and periodicity



²³ Anti-corruption strategic documents performance monitoring and evaluation methodology: approved by the Interagency Coordination Council for fighting corruption 04.03.2015.

Progress report which is produced once in every 6 months by the working groups for respective entities, reflects the process of performance of measures by the entity determined by the action plan during the reporting period and the achieved results. In line with the progress report, in every 6 months, the responsible working groups also prepare framework document for monitoring of the current action plan.

Monitoring framework envisages baseline data, the outcomes determined for measures planned in the scope of each priority, particular terms and determines the structure of monitoring. Firstly, the information is indicated in the monitoring framework by the responsible entity, which per each measure, evaluates both achieved progress as well as the existing challenges. Afterwards, monitoring framework and progress report are delivered to the representatives of the NGOs which are members of the Anti-Corruption Council, who on the other hand evaluate the progress of each measure. The final monitoring results are processed and the rating/status is assigned by the Secretariat and then submitted to the Anti-Corruption Council.

Monitoring report represents the anti-corruption action plan monitoring component. The report reflects the process of performance of the measures determined by the action plan by the responsible entities and the achieved results. The report is based on the progress report submitted by the responsible entities to the secretariat in every six months regarding implemented measures, also on the results achieved by means of monitoring framework.

Evaluation report is the component of the action plan evaluation and is aimed at evaluating results achieved by the responsible entities by means of the determined measures and their efficiency during 2 reporting years. As a result of the report, existing situation, shortcomings and challenges can be revealed which are related to each priority trend. The report is prepared by the secretariat and is submitted to the council members.



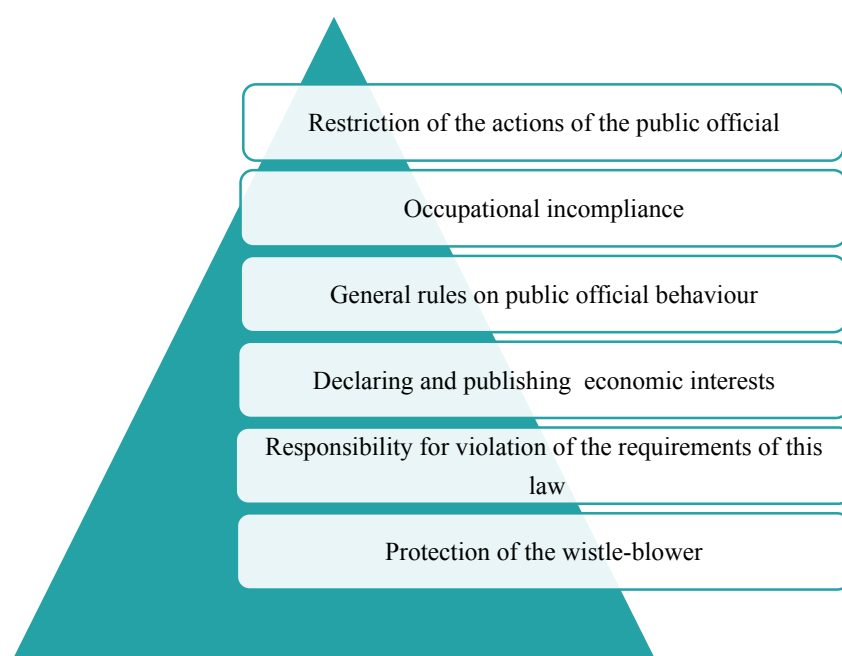
AUDIT FINDINGS

3. PREREQUISITES EXISTING FOR CORRUPTION PREVENTION

3.1 STRUCTURAL SHORTCOMINGS OF IMPLEMENTATION OF THE ANTI-CORRUPTION LEGISLATION

The law on corruption establishes key principles for prevention, revealing and restriction of conflict of interests and corruption at the public service as well as responsibility of the offenders.²⁴ This law regulates the following directions:

Diagram 6. Spheres of the law regulation



Breach of the norms of the indicated law may incur disciplinary, administrative and criminal responsibility. The law defines principles, which by means of the preventive mechanisms ensures reduction of the risks of corruption at the public service.

For observance of the above-indicated principles that are addressed by the law, the following persons are responsible within the scope of their competences:

- Head of the public entity;
- Public official;
- Civil Service Bureau;
- Anti-Corruption Council.

²⁴ Law of Georgia "On Conflict of Interest and Corruption in Public Service" Article 1.

AT THE ORGANIZATION LEVEL

Head of the Public Entity

Head of the organization is responsible for the corruption prevention at the institutional level and compliance of activities with the ethical requirements. Namely, according to the law "On Public Internal Financial Control", head of the respective public entity is responsible for risk identification, evaluation and management at the organization (among them corruption risk).

Head of the entity is obliged to introduce such financial management and control system at the organization, which will facilitate legitimate and efficient guidance of the activities, secure assets and ensure reliability of the significant information. Head of the entity is also obliged to make available and introduce to the servants of the respective public entity general and special rules of conduct by the public officials.

Public Official

Public official should conduct its activities on the basis of Georgian legislation. In the scope of the law on corruption, he/she is obliged to observe general and special rules on restricting action, occupational in compliance, conduct of public officials, also perform assigned occupational obligation fairly and in good faith. Public official must pay attention to any existing, or possible incompatibility of interests and undertake respective measures.

AT THE NATIONAL LEVEL

Specialized Entities

Specialized entities have special function in the framework of anti-corruption institutional framework due to the fact that their activities at the national level are aimed at corruption prevention and are not limited to particular public organizations.

Correspondingly, in order to successfully determine the policy at the national level and create prerequisites for corruption prevention at the public sector, they need to possess full information over the issues pertaining to their competence in the public sector.

Such issues are: mechanisms existing at the public sector for prevention of corruption and monitoring of their efficiency, status of implementation of the code of ethics etc.

CONTROL MECHANISMS EXISTING IN TERMS OF THE CORRUPTION RISK REQUIRE IMPROVEMENT

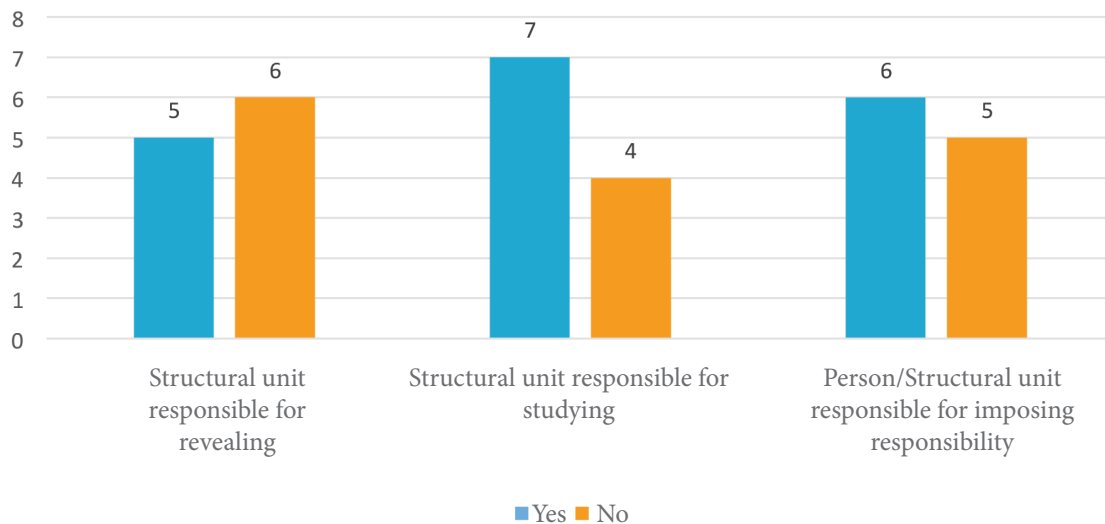
Audit team, by means of the questionnaire evaluated corruption risks at 11 selected public entities. The purpose of this inquiry was to reveal status of introduction of the internal control mechanisms aimed at corruption prevention as envisaged by the law on corruption at the public entities. Presence of these mechanisms means revealing, studying cases envisaged by diagram N6 and imposing disciplinary responsibility measures (these mechanisms could be functioning



as particular structural units, also in a form of granting particular authorities by the head of the organization to particular units/employees).

The result of inquiry demonstrated that at the selected entities baseline preventive mechanisms of corruption are partially introduced.

Diagram 7. Structural units at the selected 11 entities responsible for revealing and studying the corruption prevention norm violations and imposing responsibility



More details: at those public entities, which noted that they have the structural unit responsible for revealing and studying corruption signs, majority indicates Internal Audit Department or General Inspection (table 1).

Table 1. Structural units responsible for revealing and studying corruption signs at selected 11 public entities

Selected Entity	Responsible Structural Entity	
	Revealing	Studying
Ministry of Defense	General Inspectorate	General Inspectorate
Ministry of Infrastructure	Internal Audit Department	Internal Audit Department
Ministry of Health Care	X	Internal Audit Department
Revenues Service	Professional Ethics and Monitoring Department	Professional Ethics and Monitoring Department
Service Agency (Ministry of Finance)	X	X
Service Agency (MOIA)	X	X
Emergency Management Service	X	X
Tbilisi City Hall	X	Internal Audit and Monitoring City Service
Kutaisi City Hall	Internal Audit Department	Internal Audit Department
Rustavi City Hall	Structural Units of the City Hall	Internal Audit Service of Rustavi City Hall
Poti City Hall	X	X

As seen from the table above, out of selected 11 entities, only 2 has indicated relevant response regarding the person/structure responsible for revealing corruption signs. Results of the questionnaire also indicate incorrect awareness of the functions of the internal audit (as mentioned above, in the scope of managerial responsibility, evaluation of this kind of risks and introduction of respective mechanisms is the obligation of the organization management).²⁵

The inquiry revealed that the strategy of the significant part of the selected entities does not include corruption eradication goals, corruption risk evaluation and analysis is not conducted at the entities.

In 4 cases out of 11, organizations have not developed code of ethics, training of staff on general and special rules on conduct has been carried out at only 3 entities.

Table 2. Result of inquiry of selected 11 public entities

Selected entity	If there a code of ethics provided	Does the entity strategy include corruption eradication goals	Number of trained staff in the issues of general and special rules of conduct ²⁶	Is corruption risk evaluation and analysis conducted at the public entities
Ministry of Defense	yes	yes	37	no
Ministry of Infrastructure	no	yes	93	no
Ministry of Health care	no	no	0	yes
Revenues service	yes	no	3200	no
Service agency (Ministry of Finances)	yes	yes	4	no
Service agency (MIA)	yes	no	0	no
Emergency Management Service	no	yes	0	no
Tbilisi City Hall	yes	yes	0	yes
Kutaisi City Hall	no	yes	0	no
Rustavi City Hall	yes	yes	0	no
Poti City Hall	yes	no	0	no

At the selected entities, weaknesses of those particular control mechanisms have been revealed by means of which corruption risks have to be prevented. See examples below:

²⁵ Law of Georgia "On Public Internal Financial Control"

²⁶ 2015, 2016, 2017 years and the first half of 2018.

Taking into consideration public service and corruption laws, public officer is obliged within one month after appointment and afterwards until February 1 of each subsequent year, to address the human resources management unit of respective public entity with the respective written application indicating related persons' identification and other information reflecting their connection.

Human Resources Management Unit should reflect this information in the respective registry. The purpose of maintaining registry is to reveal possible incompatibility of interests and other corruptive risks in case of necessity.

As a result of inquiry it was identified that out of selected 11 entities²⁷ none have introduced the indicated mechanism which creates risk that incompatibility of interests and other significant corruptive risks may not be revealed and prevented at the public entity.

Taking into consideration the norms of the law on corruption it is recommended that the state entity reviews exposure application within one month after its submission, according to the rule determined by Georgian legislation and own charter.

Charter or respective act of none of inquired public entities do not include the rule on review of application on exposure.

The rule on exposure application review introduced at the public entity increases trust of the public servant (whistleblower) to the structure and also ensures raising awareness of the employees with regard to exposure mechanism. The circumstance that as a result of inquiry at the selected 11 entities in the first half of 2018, only one case of exposure was identified, may be indicative of the exposure mechanism weakness.

According to the law on corruption, when the public servant does not know whether he/she has the right to accept offered gift or benefit, he/she is obliged to make declaration at the respective structural unit or entity.

If the indicated gift does not meet the criteria defined by the law, the official must within 3 days inform immediate supervisor in writing and the entity should maintain registry where the facts of prevention of the gift or service receipt norm violations are recorded.

However, at half of the inquired public entities, there is no such person or structural unit, which would consult public servant with regard to above indicated issue, and none of the inquired entities conducts the registry of acceptance of prohibited gifts or benefits.

²⁷ According to the law, this norm/regulation does not apply to LEPLs.

3.2 DISCLOSING BREACH OF ETHICS, CONFLICT OF INTERESTS AND INCOMPATIBILITY NORMS

In the framework of the indicated questionnaire, the audit team has also studied indicators of revealing violations of norms regulating ethics, restriction of action, conflict of interests and incompatibility at the selected public entities.

The level of revealing violations of the indicated regulatory norms at the selected public entities is low.

Diagram 8. Facts of violation of occupational incompatibility norms and general rules on conduct disclosed by the selected 11 public entities (first half of 2018)

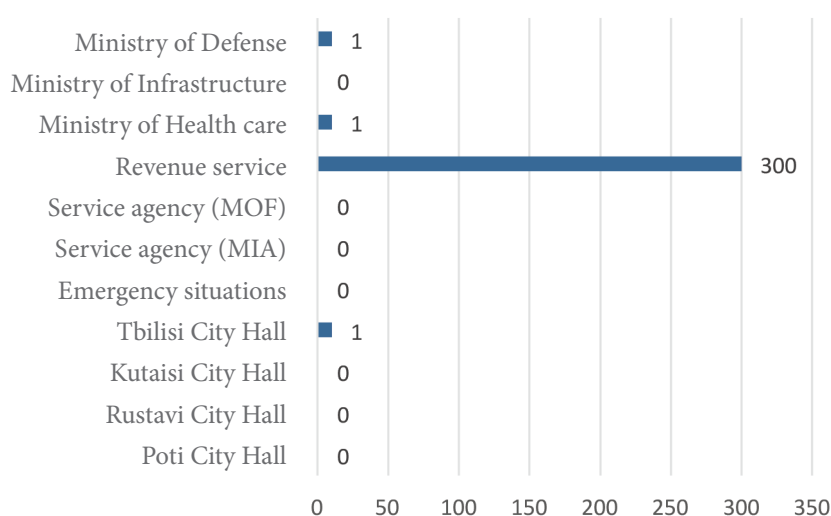
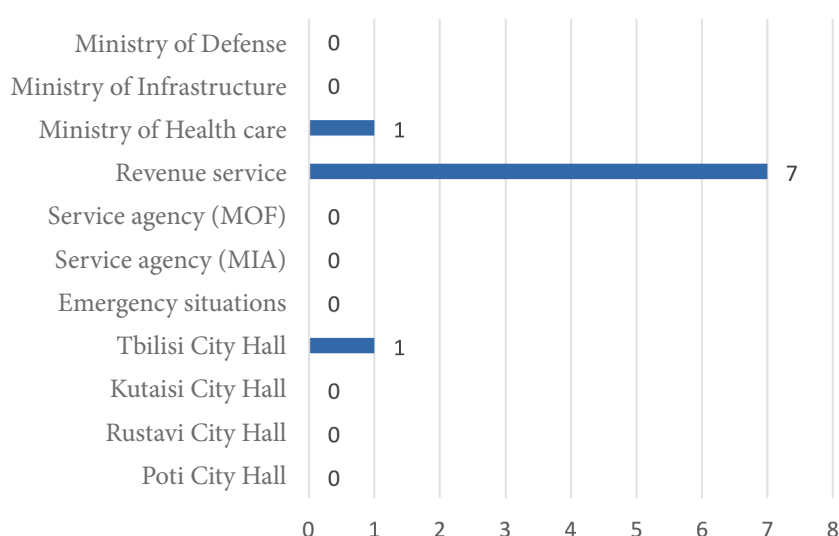


Diagram 9. Facts of violations of action restricting norms revealed by 11 selected public entities (first half of 2018)²⁸



²⁸ Selected organizations are of different size and have different activity specifics. At LEPL – Revenues Service about 3800 employees are occupied, at The Ministry of Health – 3300, at LEPL – Service Agency – 600.

REVENUE SERVICE

Analysis of the results demonstrated that at LEPL Revenue Service (hereafter – Revenue Service) corruption preventive mechanisms work better than at other 11 public entities. Revenue Service has the Department of Professional Ethics and Monitoring, which reveals studies and evaluates violations of rules of ethics and conduct.

3,200 persons were trained in general and special rules of conduct at the Revenue Service, and the indicator of disclosing general norms of ethics and conduct is higher compared to other entities.

The above-indicated control mechanisms envisaged by the law on corruption are significant and minimal prerequisites for prevention of corruption at the public entities by means of which control mechanisms oriented on particular targets are introduced at the public entities. Results of inquiries indicate inadequacy and weakness of control mechanisms existing for the purpose of corruption prevention at the selected entities.

Given that this result is systematic, it is important to study and evaluate the implementation of the anti-corruption framework in public agencies periodically by specialized agencies responsible for the prevention of corruption in the country.

Results of the evaluation should be envisaged in the anti-corruption policy documents such as anti-corruption strategy and action plan.



4. SPECIALIZED ENTITIES RESPONSIBLE FOR THE CORRUPTION PREVENTION

4.1 ANTI-CORRUPTION FRAMEWORK IN DIFFERENT COUNTRIES

Comparative researches conducted by OECD include diverse approaches and solutions which are summarized in the following 3 basic models of specialized anti-corruption institute:²⁹

- Multifunctional agency with law enforcement power and preventive functions;
- Law enforcement entities and departments/units;
- Mainly – preventive, policy making and coordinating institute; law enforcement agencies/departments.

The first model integrates into one institute preventive, investigation and awareness functions.

Law enforcement entity model also may include corruption prevention and coordination functions, however, is distinguished from the preventive model mainly by different degree of independence and visibility, which as a rule, is integrated in the structure of the already existing security force entities.

Preventive agency model (to which the system existing by the period of audit is closer) is more diverse and includes various institutes – with different degree of independence and structure.³⁰

The document emphasizes coordination, monitoring and research as they are necessary functions to introduce sound national anti-corruption strategy.

Anti-corruption agencies, aiming to reduce the risk at the public entities, use different methods and instruments at different countries. One of the most widely spread and successful means is **entity of the structural unit responsible for introduction of the program of ethics**,³¹ which in close cooperation with the anti-corruption agency facilitates entity of fair, ethical and responsible environment and conduct among employees and respective institutions.

Anti-corruption agencies, in order to evaluate the existing situation at the public entities, use the questionnaire prepared on the topics of good faith, which are filled by the persons responsible for the program of ethics with relevant periodicity.

By means of such questionnaire, corruption risks are evaluated at the public entities and weaknesses of mechanisms existing for their prevention are revealed. Correspondingly, by relying on the results of this questionnaire, anti-corruption agency, in coordination with the responsible entity, shall develop national anti-corruption policy documents, among them anti-corruption scheme.

²⁹ OECD – Specialized Anti-Corruption Agencies, p. 24.

³⁰ Preventive model key functions are described in sub chapter – 2.2.1.

³¹ Integrity and Prevention of Corruption Act, Slovenia. p. 40.

4.2 ROLE OF THE CIVIL SERVICE BUREAU IN THE PROCESS OF SUPPORTING ANTI-CORRUPTION POLICY

CODE OF ETHICS

According to 2015-2016 anti-corruption action plan³² the Bureau was responsible for improvement of the norms regulating ethics, conflict and incompatibility of interests of the public officials, the Bureau, for this purpose, has exercised various measures, among them:

- Norms regulating disciplinary responsibility procedure and basis of the public officials have been developed;
- By indicating respective sanctions, general rules of ethics and conduct of the public officials have been developed and their enforcement mechanisms have been established.

In the framework of the latter effort, draft resolution for “Determining General Rules of Ethics and Conduct at the Public Entity” (hereafter – code of ethics), guidelines and practical manual have been developed. The indicated code of ethics was approved by the government in 2017. The purpose of the code of ethics is to create ethical environment at the public entity and introduce professional standards of the public official which will facilitate development of fair, unbiased and collegial public entity, also increase trust of public towards the public service.³³

Code of ethics along with other issues determines the following issues regulated in the scope of the law on corruption at the public sector:

- Good faith at the public sector;
- Abuse of power;
- Conflict of interests;
- Rotating door (movement of public officials among private and public sectors);
- Nepotism;
- Disclosure;
- Gift.

The Bureau, with the aim to study practice related to disclosing unethical conduct and evaluate the exposure mechanism efficiency, in 2017 requested information from the public entities³⁴ about the number of unethical conduct cases disclosed at the organizations.

As a result of inquiry by the Bureau, 1083 unethical conduct cases have been revealed in the public sector according to 2017 data.

32 Action plan of following 2017-2018 years envisaged training of the managers for the purpose to introduce uniform system of evaluation at the public service on the issues of ethics, conflict of interest and incompatibility, conducting trainings for the public servants and officials.

33 Guidelines of ethics and general rules on conduct at the public entities, Civil Service Bureau.

34 Administration of the President of Georgia, Parliament of Georgia, Ministries/Sub-Agencies, Autonomous Republics, Courts, Self-Governments, Independent Organizations, where the activities are considered as public service.

However the Bureau has not studied/analyzed the issue as to which unethical conduct category (envisaged by the law) relates to the aforementioned circumstances and to what extent are norms envisaged by the law on corruption and code of ethics enforced at the country level.

Bureau, in the scope of its responsibilities, should evaluate the state of introduction of those mechanisms at the public entities, which are determined by the code of ethics and the law on corruption.

Such evaluation will facilitate Bureau to reveal weaknesses existing in the direction of conflict and incompatibility of interests at the public sector based on which the Bureau should develop measures to be introduced in the anti-corruption action plan. Evaluation of the corruption risks at the public sector increases the role of the Bureau in developing anti-corruption policy.

Prohibited Gift

According to the information presented in chapter 3 of the report, accounting of the cases of accepting expensive gifts by the public servants and ensuring compliance of such cases with the law is characterized by number of shortcomings.

According to the information provided by the Bureau, they have not received any application on prohibited gifts from 2015 through first half of 2018, which coincides with the audit evaluation results – there is no preventive mechanism regarding prohibited gift at the selected public entities.

Property Declarations of the Public Officials

From January 1, 2017, Bureau conducts monitoring of the property declarations of the officials. According to the instructions of monitoring³⁵ declarations of officials randomly selected by the electronic system, justified written applications and declarations selected by the independent commission are subject to inspection.

According to the law on corruption, number of randomly selected declarations and those selected by the independent commission in each case should not exceed 5 % of the total number of the officials.

Since the law establishes upper and lower threshold for checking declarations, theoretically it is possible to check symbolic number (very few) of declarations per year.³⁶

It is notable that 5% of the indicated declarations are selected not based on risk based approach, but on random selection basis. Electronic system of declarations monitoring allows seeking information necessary for checking accuracy and completeness of data declared by the official

35 Resolution N 81 as of February 14, 2017 of GoG "On Approval of the Instructions for Monitoring Property Conditions of the Government Official".

36 However, 5% is checked systematically.



on property conditions at the electronic databases administered by the public entities.³⁷ Systematized, risk based selection approach in the declarations monitoring process increases the possibility that among selected 5% will be those officials whose property declarations include substantial inaccuracy.

4.3 NATIONAL ANTI-CORRUPTION STRATEGY AND ACTION PLAN DEVELOPMENT PROCESS

Determining the national anti-corruption strategy and developing the action plan are one of the key issues of the national anti-corruption policy.

According to information provided by secretariat of Anti-Corruption Council, anti-corruption strategic documents are developed in the following way:

At the initial stage, the secretariat performs systemic evaluation of risk, which relies on the best international experience, recommendations of the international organizations and evaluation of performance of previous years' strategic and action plans.

At the second stage, development of anti-corruption policy documents continues with the request to the working group existing in the scope of Anti-Corruption Council, to submit anti-corruption measures in the scope of specialization and competence, which are advisable to be planned and implemented in the period of the upcoming action plan (commitments are presented by the state and NGOs representatives of the working groups).

According to working group meetings (bilateral and multilateral) and electronic communication, draft anti-corruption policy documents will be developed. In this process, the function of the secretariat is to facilitate inclusion of the significant commitments in the action plan, to reflect the recommendations of the existing international and NGOs organizations and challenges identified through the analysis made by the secretariat in the new plan.

Anti-Corruption Council relies on complex approach to the corruption and develops anti-corruption policy documents based on the coordination between the state entities: development of efficient anti-corruption policy requires joint and agreed efforts of the public entities.

According to the national anti-corruption strategy, uniform approach, close coordination and exchange of information between the state entities is highly important for the purpose of planning, implementing successful preventive policy and achieving set goals.

2015-2016 anti-corruption strategy included 13 priorities, anti-corruption strategy of the following period and 2017-2018 action plan covered 16 priority spheres.

It is notable that anti-corruption strategy is gradually expanding, priorities are added as well as participant public sector organizations.

37 Public Service Development Agency, National Agency of Public Registry, Service Agency of the Ministry of Internal Affairs, Revenue Service, State Procurements Agency.



PREREQUISITES FOR PREPARATION OF THE HIGH QUALITY ANTI-CORRUPTION DOCUMENTS

Risk Evaluation

Results of risk evaluation should serve as basis for development of the anti-corruption priority, strategy and plan. Risk evaluation should facilitate Anti-Corruption Council for full, unbiased evaluation and disclosure of the anti-corruption risks vested in the entire public sector, on the grounds of which anti-corruption action plan has to be developed and evaluated.

According to 2015-2016 action plan, in July 2016 the secretariat should have submitted to the council the methodology for evaluation of the corruption risks. This activity was shifted to 2017-2018 action plan, however according to the information provided by the secretariat during the audit period, corruption risk evaluation methodology was not ready.³⁸

This is especially important taking into consideration circumstances described in chapter 3 of the present report.

Engagement of the Public Sector in the Risk Evaluation

Risk should be evaluated with participation of all significant spheres of public administration to avoid omission of the substantial risk spheres.

Experts working groups are functioning in the framework of the council, which are staffed by public, NGOs and international organization representatives, according to 9 thematic directions.

In 2015-2016, representatives of the following entities were not listed among the council members:

- Ministry of Corrections;
- Ministry of Agriculture;
- Ministry of Energy;
- Ministry of Culture and Monuments Protection;
- Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees;
- Ministry of Foreign Affairs;
- Ministry of Environment and Natural Resources Protection ;
- Ministry of Sports and Youth.

Accordingly, in the said period out of 16 ministries, representatives of 8 ministries did not participate in the process of determining priorities and developing action plan.

It is notable that as a result of the structural changes made by the government, ministries were restructured. Out of 11 ministries in 2019, 3 were not members of the council.

³⁸ Risk evaluation document was sent to the council members by the end of 2019, its approval is anticipated in 2020.



STATISTICAL INFORMATION, COORDINATION AND ANALYTICAL RESEARCHES

Corruption offence statistics is one of the prerequisites of planning anti-corruption policy.

During the audit period, the secretariat as needed (to conduct own analysis, to provide to the international organizations etc.) requested from various entities corruption offence statistics, which mainly included the following information:

1. Total and article-based amount of corruption offence per years;
2. Number of corruption offence cases filed at the district (city) courts, number of not-guilty and guilty verdicts³⁹;
3. Number of prosecuted persons.

In order to exercise the detailed analysis, audit team requested from respective bodies and processed statistics on corruptive offence, according to which in the country in 2015-2017 there were 1,740 cases of corruption offences registered by the respective investigation bodies.

The purpose of this procedure was, in line with gathering of the general statistics of the corruption offence, to analyze its structure according to regional, institutional, occupational etc. type of offence. Such detailed analysis would allow the audit team to evaluate the dynamics of offence per particular regions, entities and circle of officials, also at the level of control mechanisms.

Audit team did not receive detailed statistics of the corruption offences in the indicated form, and based on the study of brief descriptions of about 1,000 individual cases provided by the Analytical Department of the MIA, calculated only the regional distribution of the offences.

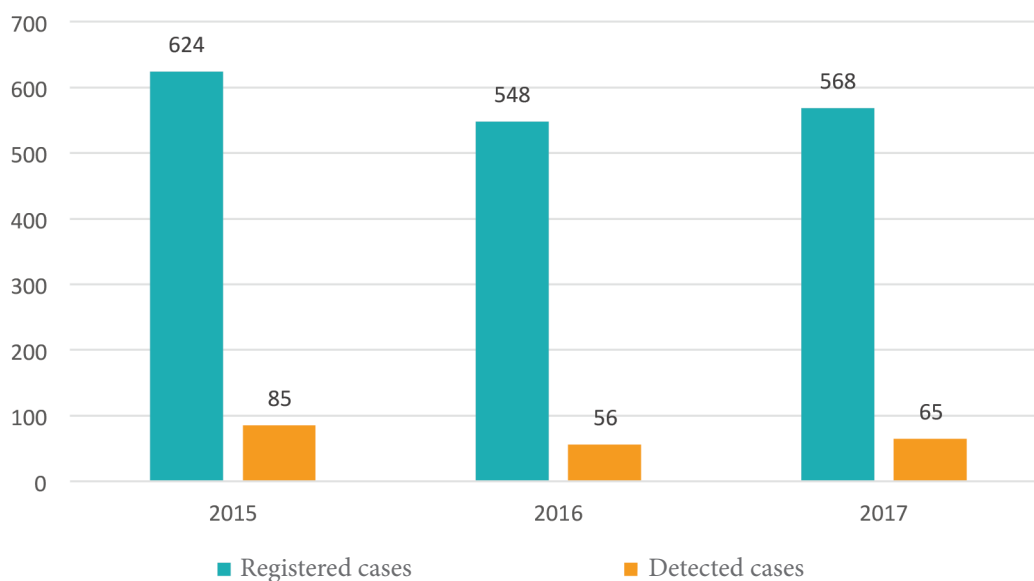
The audit team was not able to count corruption offence facts in the state entities, also was not able to identify employees of which class and structural sub-divisions represent risk group, what control mechanisms are in place at those entities where there are frequent cases of the corruption offences, the extent of damage incurred to the state etc.

As of April 2018, out of 1,740 cases registered in 2015-2017, 12% was detected.

³⁹ The period of court hearing and that of committing an offence may be differing

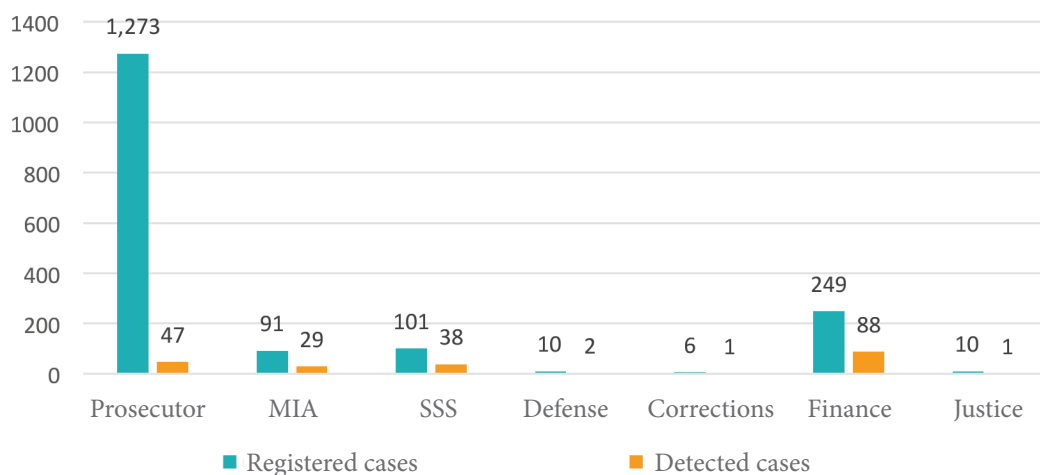


Diagram 10. Registered and detected corruptive offence cases (2015-2017)



Distribution of the corruptive offence per entities is provided on the diagram below:

Diagram 11. Statistics of corruptive offence per entities during 2015-2017



Audit team has distributed corruptive offence statistics per regions.⁴⁰ The analysis demonstrated that 70% of corruptive offence is registered in the regions. Nevertheless, priority – *facilitation of the corruption prevention at the municipalities* was set in 2016 following OECD recommendations and by 2018, out of 62 self-governing units only 3 were involved in the uniform anti-corruption policy implementation, by the end of 2019, 13 municipalities were involved in the activities of the council.

In 2015, division of the criminal prosecution of corruption crimes was established at the General Prosecutor's office of Georgia one of the key tasks of which is to investigate facts of offence related to corruption at full scale and prosecute.⁴¹

⁴⁰ In 2015-2017, for about 70% of totally registered cases, regions were differentiated.

⁴¹ Out of 36 cases filed by the Bureau in 2015-2017 none were opened by the end of 2018.

According to 2015-2016 anti-corruption action plan, conduct of the analytical researches by the secretariat was determined as one of the indicators, in the scope of which the secretariat should have exercised researches in the various priority spheres.

The purpose of the research is to determine spheres and trends prone to corruption. According to the monitoring framework, the secretariat, through the first half of 2018, conducted 2 analytical researches⁴² which does not fully respond to the needs existing in this direction.

According to regulations, Anti-Corruption Council meeting should be held twice a year. In 2018, the meeting of the council was held once, on December 27.

CONSULTANCY BANNER

Anti-corruption strategy emphasizes the transparency of policy development process. According to this principle, openness of the preparation of the strategic documents, considering their needs and opinions are important for raising public trust and facilitating public engagement.

In order to facilitate public engagement in the anti-corruption policy document preparation process, the council in 2016 has established electronic consultancy banner by means of which the citizen is given an opportunity to participate in policy development. The purpose of the mechanism is to allow the stakeholders to present their opinions to the council using the questionnaire regarding anti-corruption strategic priorities. The consultancy mechanism is posted at the web page of the Ministry of Justice (<http://www.justice.gov.ge>) and allows citizens to determine which priority trends should be the part of the anti-corruption policy.

The audit revealed that from 2016 through first half of 2018, by means of the consultancy banner the feedback received from the citizens by the council was insignificant.

This circumstance can be partially attributed to the fact that the Anti-Corruption Council does not have own web page, it is the part of the web page of the Ministry of Justice and the citizen has to undergo 5 steps to reach the consultancy banner at the indicated site: 1. The Ministry; 2. Departments; 3. Analytical Department; 4. Fighting Corruption; 5. National Anti-Corruption Strategy and Action Plan Update.

4.4 PROCESS OF COMPILING AND EVALUATING THE ANTI-CORRUPTION ACTION PLAN

OUTCOMES AND INDICATORS

Experts working group is established in the scope of Anti-Corruption Council, which includes the representatives of the Anti-Corruption Council member entities. Experts group is responsible for preparation of the documents, reports and proposals for submission to the council.

⁴² "Mechanism of engaging local self-government in the Anti-Corruption Council activities" in 2015 and comparative-legal research of internal consumption regarding limits of publicizing public information, in 2017.

Anti-Corruption Council member state entities are committed to develop and submit such measures to the council in the scope of the anti-corruption action plan, which will reduce corruption risks in the country against already determined priorities.

Anti-corruption strategy and the action plan are reviewed at the Anti-Corruption Council, and afterwards approved by the Government.

In 2015-2016 Action Plan, 13 priorities are presented⁴³ and the second chapter of the plan -“Corruption Criminalization, Effective Disclosure of Corruption Offences and Prosecution”, which, for the purposes of this report, is considered as 14th priority. In the scope of the determined priority, the responsible entity should present the outcome, outcome indicator, measure and target.

In 2017-2018 action plan, priority spheres have augmented and comprised 17 priorities.

Table 3. Structure of the action plan

I. Priority				
1.1 Outcome – Indicators				
	2015		2016	
	I	II	I	II
1.1.1 Activity	target	target	target	target

Outcome indicator has the opportunity of efficient evaluation and monitoring system, which allows to reveal dynamics of the each indicator, impact on which might increase or decrease efficiency indicator of the outcomes envisaged by the action plan.⁴⁴

Each indicator performance process is measured by the secretariat of the Anti-Corruption Council by means of the targets, which are distributed among 2 year reporting periods. The secretariat evaluates targets with 5 criteria/rating:

- **Fully accomplished** – the measure envisaged by the action plan is fully accomplished
- **Mostly accomplished** – more than half of the measure envisaged by the action plan is fully accomplished and only minor part is remaining unfinished
- **Partially accomplished** – less than half of the measure envisaged by the action plan is accomplished and most of it is remaining unfinished
- **Not accomplished** – measure envisaged by the action plan is not performed

2015-2016 anti-corruption action plan has been analyzed in the scope of audit which has 14 priorities, 65 outcomes, 198 measures and 851 targets.

Out of 851 targets evaluated by the council secretariat:

⁴³ 14th priority was added in 2016, as a result of the plan renewal, however it is not reviewed in the monitoring framework.

⁴⁴ Anti-corruption documents performance monitoring and evaluation methodology, 2017.

Table 4. 2015-2016 action plan targets performance indicator

Fully accomplished	59%
Not accomplished	11%
Partially accomplished	13%
Mostly accomplished	9%
Not evaluated	8%

At the data above it is shown that 33% of the total evaluated targets of the 2015-2016 action plan have not been fully accomplished, 8% of targets were not evaluated by the secretariat as the responsible entity did not provide the information.

Since 33% of the fully unaccomplished targets are distributed among various entities, anti-corruption action plan analysis also revealed that **71% of 198 measures have not been fully accomplished.**

Indicators presented in the action plan are not evaluated, accordingly the outcome of each accomplished target cannot be identified. Indicators do not have due timelines and some of the important indicators evaluated by the audit team do not meet SMART criteria.⁴⁵

Correspondingly, the outcomes presented in the action plan – cannot be fully evaluated with the outcome indicators. The examples below analyze outcome indicators presented in the action plan.

OUTCOME INDICATOR EXAMPLE 1.

The outcome presented in 2015-2016 action plan: *Information availability in the scope of judiciary system is ensured; Judiciary system reform is progressing transparently, with active participation of the civil society.*

Outcome indicator: *trust of population to the judiciary system has increased.*

Responsible entity: High Council of Justice of Georgia and Ministry of Justice of Georgia.

Reviewed indicator does not meet SMART criteria, it is not particular and measurable, as in the planning and evaluation document particular information is not specified in terms of what and to what extent should the trust of population increase.

The secretariat has not measured outcome provided in the action plan using this particular indicator.

⁴⁵ SMART – criteria means that all elements of the plan (goal, sub-goal, task, activity) should be particular, measurable, achievable, result-oriented and have particular timelines.

OUTCOME INDICATOR EXAMPLE 2.

Outcome presented in 2015-2016 action plan: *Norms regulating ethics, conflict and incompatibility of interests at the law enforcement bodies: revised and are functioning efficiently.*

Outcome indicator: *indicator for revealing breach of ethics, norms regulating conflict and incompatibility of interests has increased.*

Responsible entity: General Prosecutor's Office of Georgia and Ministry of Internal Affairs of Georgia.

Given outcome has not been evaluated by the secretariat using this particular indicator. Also, similar to the example above, it is not specified, in terms of what and to what extent should the indicator of revealing breach of regulatory norms increase.

CIVIL ENGAGEMENT

According to one of the principles of the anti-corruption strategy, efficient anti-corruption policy requires cooperation with governmental, NGOs and international organizations and the business sector. Participation of the civil sector is important not only in terms of developing the strategic documents, but also in the planning and implementation of the various anti-corruption measures, as well as in their monitoring process.⁴⁶

According to the resolution of the Government,⁴⁷ representatives of 17 civil sectors were asked to participate in the activities of the council, among them Institute for Development of Freedom of Information (hereafter – IDFI), “Transparency International – Georgia” (hereafter – TI) and Georgian Young Lawyer’s Association (hereafter – GYLA).

In the scope of monitoring framework, once in every 6 months, representatives of NGOs are given opportunity to evaluate targets presented in the anti-corruption action plan. The secretariat, prior to granting the final evaluation status to the target, takes into consideration, evaluations provided by NGOs (if any). However, the final status of the target is granted by the council.

2015 – 2016 action plan were not evaluated by NGOs in 2015, in 2016 only 9% of the total targets were evaluated. The action plan of 2016 was evaluated in one reporting period instead of two and mainly IDFI was involved in the monitoring process by the end of 2016, also 3 targets were evaluated by TI.

⁴⁶ Anti-corruption strategy of 2017-2018.

⁴⁷ Resolution of GoG N 390 as of December 30, 2013 “On Composition and Approval of Charter of the Anti-Corruption Inter Agency Coordination Council”.



According to the held interviews and also comments reflected in the monitoring framework document, IDFI ⁴⁸ and GYLA assume that those documents should be enclosed with the monitoring framework document which will allow NGOs and other organizations undertaking monitoring to check performance of measures. Representatives of the NGOs consider that evaluation of the measures and targets reflected in the anti-corruption action plan based on the monitoring framework document and progress report provided by the secretariat do not allow to fully utilize their expertise, as for this purpose, the secretariat should present such documents, which would allow NGOs to make qualitative evaluations of the undertaken measures.

During interviews of the audit team, NGOs (TI, IDFI and GYLA) also stated that, taking into consideration lack of resources and priorities, they would find it hard to take more intensive part in the evaluation process of the anti-corruption action plan.

The above circumstance indicates that the existing mechanism of the council, which envisages efficient participation of the NGOs, is not sufficient. Correspondingly, the strategic goal, which implies sound participation of the civil sector in the monitoring process, is not secured.

48 Evaluation of IDFI on performance of 2015-2016 anti-corruption action plan, performance of 2016 activities, May 2017.

RECOMMENDATIONS:

CIVIL SERVICE BUREAU:

- For the purpose to conduct sound analysis of practical implementation/application of ethics and rules of conduct of public servants, should perform monitoring of development and practical implementation the code of ethics, also regulatory norms related to the rules of conduct of the public officials, analysis of the indicated information and reflection of the improvement needs in the action plan.

Ministry of Justice/Secretariat:

- In order to develop maximally effective strategic and action plans, which would adequately respond to the challenges existing in the country in terms of corruption prevention, should ensure engagement and coordination of all stakeholders (among them, ministries) implying:
 - Their participation in the risk evaluating process;
 - Proactive use of statistics gathered by various entities and analysis while compiling the action plan.
- With the object of full and homogenous evaluation of the risk at the public sector, ensure development, approval and practical implementation of the risk evaluation methodology, also conduct of analytical researches
- For realistic evaluation of the action plan and achieved results of the council, should ensure such determination of the targets and outcomes, which would allow the evaluator to identify completeness of exercised activity and to measure achieved result.



ANNEXES

ANNEX 1. COMPOSITION OF THE ANTI-CORRUPTION COUNCIL

State entities:
Minister of Justice of Georgia – Chairman of the Council
Chairperson of the Legal Issues Committee of the Parliament of Georgia
First Deputy Chairperson of the Legal Issues Committee of the Parliament of Georgia
Deputy President of the Supreme Court of Georgia
Parliamentary Secretary of the Government of Georgia
First Deputy Minister of Justice of Georgia
Deputy Prosecutor General of Georgia
Deputy Minister of Internal Affairs of Georgia
Deputy Head of the State Security Service of Georgia
First Deputy Minister of Defense of Georgia
Deputy Minister of Regional Development and Infrastructure of Georgia
Deputy Minister of Internally Displace Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia
Deputy Minister of Economy and Sustainable Development of Georgia
Deputy Minister of Education, Science, Culture and Sports of Georgia
Deputy Minister of Finance of Georgia
Head of Investigation Service of the Minister of Finance of Georgia
Business Ombudsman of Georgia
Auditor General of the State Audit Office of Georgia
President of the National Bank of Georgia
Personal Data Protection Inspector
Chairperson of the Central Election Commission of Georgia
Head of LEPL – Financial Monitoring Service of Georgia
Chairman of LEPL – State Procurements Agency of Georgia
Chairman of LEPL – Competition Agency of Georgia
Head of LEPL – Revenue Service of Georgia
Head of LEPL – Civil Service Bureau
Chairman of the National Communication Commission of Georgia
Chairman of the National Energy and Water Supply Regulatory Commission of Georgia
Public Defender of the Interests of Consumers Existing at the National Communication Commission of Georgia
Public Defender of the Interests of Consumers Existing at the National Energy and Water Supply Regulatory Commission of Georgia
Head of the Analytical Department of the Ministry of Justice of Georgia, Secretary of the Anti-Corruption Council



The following entities may also participate in the activities of the council:

Representative of „Transparency International – Georgia“
Representative of Non-commercial Legal Entity – Georgian Young Lawyer’s Association
Representative of Non-commercial Legal Entity- Business Association of Georgia
Representative of Non-commercial Legal Entity of the IDFI
Representative of Non-commercial Legal Entity - Caucasian Institute for Peace, Democracy and Development
Representative of Non-commercial Legal Entity - the Elections and Political Technologies Research Center
Representative of European Council Office in Georgia
Representative of Delegation of the European Union to Georgia
Representative of American Bar Association (ABA) in Georgia
Member of the Representation of the United Nations Office on Drugs and Crime (UNODC) to Georgia
Representative of the “Open Society Foundation Georgia”
Representative of the Georgian Foundation for Strategic and International Studies
Representative of Non-commercial Legal Entity – Economic Policy and Research Center
Representative of United States Agency for International Development (USAID)
Representative of the International Chamber of Commerce
Representative of the American Chamber of Commerce of Georgia
Representative of the International Society of Fair Elections and Democracy Georgia
Deputy Chairman of the Tbilisi City Municipal Assembly
Deputy Mayor of Tbilisi
Deputy Chairman of the Rustavi City Municipal Assembly
Mayor of Rustavi Municipality
Chairman of Telavi City Municipal Assembly
Vice-Mayor of Telavi



ANNEX 2. INVESTIGATORY SUBORDINATION OF THE CRIMINAL OFFENSE CASES

Article of CC of Georgia	Title of the Article	SSS	Bureau of Corruption of the General Prosecutor's Office of Georgia	Office of Investigation of the Ministry of Finance	General Prosecutor's office	General Inspectorate of the Ministry of Justice
164 ¹	Bribing electors	√	√			
182 (2, „d“)	Misappropriation or peculation by abusing power	√	√			
194	Legalizing illegal revenues				√	
194 ¹	Using, acquiring, possessing and selling property obtained by means of legalization of the illegal revenues				√	
220	Abuse of power		√	√		
221	Commercial bribery		√	√		
332	Abuse of power	√	√			√
333	Exceeding power	√	√			√
337	Illegal participation in the entrepreneurial activities	√	√			√
338	Taking bribes	√	√			√
339	Giving bribes	√	√			√
339 ¹	Trading with influence	√	√			√
340	Receiving gift prohibited by the law	√	√			√
341	Occupational bribery	√	√			√
355	Not submitting property declaration or entering incomplete or inaccurate data in the declaration	<ul style="list-style-type: none"> Ministry of Internal Affairs investigates offences envisaged by Article 355 of CC of Georgia 				

ANNEX 3.

LAW OF GEORGIA “ON PUBLIC SERVICE”:

- Rule on competition for the public official and contract based appointments consistent with clause 3, Article 38 and clause 1, Article 83;
- Revealing facts of breaching ethics and general rules of conduct according to article 85, clause 1 sub clause “c”.

Law of Georgia “On Conflict of Interest and Corruption in Public Service”

- Issuance of accepting gift by the official at the public entity, according to Article 5, 52, 134, 135;
- Issues of restricting action from Article 7 through 11;
- Issues of occupational incompatibility, according to Article 13;
- Issues related to general conduct rules, according to chapter III¹ ;
- Issues of exposure according to Article 20³ and 20⁶.



REFERENCES

NORMATIVE MATERIALS

UN Convention against Corruption;

Law of Georgia "On Public Service", 2017;

Law of Georgia "On Conflict of Interest and Corruption in Public Service" 1997;

Law of Georgia "Criminal Code of Georgia", 1999;

Law of Georgia "On State Internal and Financial Control", 2010;

Resolution of GoG N 390 as of 2013, "On Composition of Anti-Corruption Inter Agency Coordination Council and Approval of its Charter";

Resolution of GoG N 200 as of 2017 "On Determining Ethics and General Conduct Rules at the Public Entity";

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Order of the Minister of Justice of Georgia N 161 as of 2010, "On Approval of the Charter of the Analytical Department of the Ministry of Justice of Georgia".

MANUALS AND PUBLICATIONS

Guidelines for ethics and general conduct rules at the public entity;

Methodology for monitoring and evaluation of implementation of anti-corruption strategy documents, 2017;

Anti-corruption reforms in Georgia by OECD, second, third and fourth round evaluations;

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