

## Respond to the Questionnaire of the United Nations Human Rights Office of the High Commissioner

Within the competences of the Analytical Department of the Ministry of Justice of Georgia, serving as a Secretariat to the Anti-Corruption Council, please find below responses to the questions N1, 4, 5 and 8.

### **Question 1. Examples which show how anti-corruption efforts can be effectively complemented, through the use of human rights standards, methods and mechanisms**

With the acknowledgment that corruption leads to violations of human rights, impedes country's economic growth, development of business and investments, thereby affecting the poor and vulnerable segment of population most severely and with the understanding that bribery, misappropriation of public resources, conflict of interests, trading in influence, instances of favoritism and nepotism undermine the confidence of society in public institutions and cause large amount of discontent with the public services prevention of corruption and elimination of corrupt practices in public and civil institutions is one of top priorities of Georgian authorities.

Georgia has moved to a new stage of fight against corruption and the main target for Georgia now is to achieve a high level of transparency and accountability, to increase access to public information and to enhance involvement of citizens, to further improve corruption prevention mechanisms and take advantage of new technologies and innovative approaches in the public governance.

Anti-Corruption Council<sup>1</sup> functions of which among others include elaboration of the Anti-Corruption Action Plan and Strategy as well as supervision of their implementation, initiation of relevant legislative activities and drafting recommendations while elaborating anticorruption strategic documents *always focuses on the human rights protection aspects*. National Anti-Corruption Strategy of Georgia and its 2015-2016 Action Plan put a stress on the effective enforcement of human rights such as right to access to the public information, right of the whistleblowers to be protected from undue influence, development of political rights, right to free trial etc.

Moreover, the whole system in terms of corruption prevention and fight against corruption, is based on the safeguarding of *right to participation*. In particular, **(i)** the Anti-Corruption Council is composed of 47 members of which 17 members represent local and international NGOs, international organizations, donors and business associations, **(ii)** anticorruption strategic documents are elaborated with the intensive participation and involvement of representatives of the above mentioned institutions and the society as a whole by means of the work of the thematic working groups<sup>2</sup> and public consultations, **(iii)** Openness, access to public information and civil

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<sup>1</sup> The Anti-Corruption Council is an inter-agency institution composed of 47 members of which 17 observers represent local and international NGOs, international organizations, donors and business associations whereas other members represent parliamentary, executive and judicial authorities. The Council is chaired by the Minister of Justice of Georgia. Please find further information - [here](#).

<sup>2</sup> In 2013 the Anti-Corruption Council created thematic Sub-Working Groups responsible for drafting the

participation in the fight against corruption appears one of the strategic priorities of the National Anti-Corruption Strategy of Georgia, **(iv)** In September 2013 the Data Exchange Agency (DEA) integrated the electronic communication service into the Citizens' Portal - [www.my.gov.ge](http://www.my.gov.ge). That allows citizens to interact with the Government electronically, submit a request of public information to 138 public organizations (by using their e-documentation management systems), track the request sent and receive replies electronically, **(v)** based on the new Methodology of Monitoring and Evaluating Strategic Anti-Corruption Documents civil society is asked to provide the information about the progress on their part on each measure envisaged in to the National Anti-Corruption Action Plan.

Moreover, in order to ensure right of participation of all segments of the society the Government of Georgia decided to broaden the scope of fight against corruption and developed 13 Anti-Corruption Strategic Priorities (as opposed to the six Strategic Priorities of 2010-2013) particularly focusing on the groups that are more vulnerable. Approved Strategic Priorities include: Prevention of corruption in public service, in law-enforcement bodies, in judiciary, in public finance, in public procurement, in customs and tax system, in private sector, in health and social sector, in defense sector, in regulatory bodies etc.<sup>3</sup>

Ensuring ***right to participation*** in order to detect and eradicate corruption is also linked to the right to ***access to the public information***.

With the regard of creating transparent and accountable governance system and corruption-free environment in the country significant steps have been undertaken by the Government of Georgia. Namely, Georgia has created the online state procurement system and online financial declarations system of public officials, developed E-Treasury and E-Budget programs, overhauled political party funding legislation, elaborated Decree of the Government on Proactive Publication of Public Information and Electronic Request on August 26, 2013 and initiated a comprehensive revision of legal provisions on access to information and elaboration of Freedom of Information Act in 2014.<sup>4</sup>

Mechanisms established in order to ensure access to public information includes **(i)** the above mentioned electronic communication service integrated into the Citizens' Portal - [www.my.gov.ge](http://www.my.gov.ge), **(ii)** in each public entity at least one person is appointed staff that is responsible for access to public information. Currently 16 ministries and almost 200 Legal Entities of Public Law with coordination of the ministries have two persons in charge of access to information (one officially appointed to perform this certain duty and another one replacing the former in cases of absence), **(iii) Public information** shall be released immediately and in exceptional cases the time limit may be extended up to 10 days. Moreover, Ministry of Justice of Georgia with the active participation of civil society elaborated draft law on Freedom of Information that foresees different terms for the different category of information varying from immediate release to 10 days (including 3 days and 48 hours), **(iv)** access to the public information is ensured to all citizens without requirement to

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respective parts of the national Anti-Corruption Strategy and its 2015-2016 Action Plan, each of which was co-chaired by one representative of government agencies and one from NGOs.

<sup>3</sup> Please find further information - [here](#).

<sup>4</sup> The Draft Law is planned to be finalized in 2016.

justify the request, **(v)** in case public institution refuses to release public information the mechanism to appeal the decision is also guaranteed.

**Protection of political rights** guarantees effective policy against political corruption. To this end Government of Georgia committed in the Anti-Corruption strategy to make efforts towards the improvement of monitoring process of political party financing as well as the increase in transparency of spending and accountability through enhancing existing mechanisms and proactively publishing financial reports. One of the important aspects in this regard is ensuring high level of participation from the public including non-governmental and international organizations.

One of the objectives of the Government of Georgia foreseen in to the Anti-Corruption Strategy is to raise awareness among society of the institution of **whistleblower protection**. Awareness raising is a current obligation since the two-staged reform/amendments have already been introduced (April, 2014, October 2015) to the Law on Conflict of Interest and Corruption in Public Service addressing protection of whistleblowers. The Law of Georgia on Conflict of Interest and Corruption in Public Service ensures both anonymous and confidential whistleblowing, to protect a whistleblower from retaliation, intimidation, oppression, coercion, humiliation, moral or material damage, use of violence or threat of violence, discriminatory or any other illegal act with regard to the whistleblowing incident against whistleblower or his/her close relative (Article 20<sup>4</sup>). In addition, the whistleblower may not be subject to administrative procedures, civil action, prosecution, retaliatory measures or be held responsible otherwise for the circumstances related to the facts of whistleblowing (Article 20<sup>4</sup>).

Moreover, regarding additional safeguards and protection of the rights of whistleblowers since the new amendments to the Law of Georgia on Conflict of Interest and Corruption in Public Service come into force, the so-called “Red Button” on the official web-page of the CSB is operating.

For guaranteeing **right to fair trial** is one of the bases for creation of corruption-free environment in judicial system. The later is also resulting from the ensuring the independence of judiciary. The Government of Georgia aims to ensure true independence of judiciary from any kind of outside interference and increase public trust towards the court system of Georgia through legislative reforms that have been carried out in several stages. In particular, but not limited to, securities include: **(i)** the institution of jury trial is established, **(ii)** a rule of lifetime appointment of judges is operational (except for Supreme Court judges), **(iii)** the engagement of judges in manning the High Council of Judges and in general, in decision-making on justice system-related issues is ensured, **(iv)** guarantees to bolster the independence of High Council of Justice, the Judicial Conference - a self-governing body of judges, and the Administrative Committee is in place, **(v)** decisions at High Council of Justice are taken by secret ballot, **(vi)** bodies authorized to impose disciplinary liability on judges, on the one hand, and on the other hand, authorized to hear disciplinary cases are separated, **(vii)** a procedure which defines the obligation of conducting an objective, honest and impartial evaluation process and at the same time, provides legal guarantees for protecting interests of judges in the process of evaluation is in place.

**Question 4.** Examples of **engagement with regional and international human rights mechanisms** that brought about change in anti-corruption efforts;

Within the *Universal Periodic Review* Georgia committed to implement 136 recommendations and voluntary obligation. Recommendation N97 was addressing public access to information. In 2015 in the *Universal Periodic Review*, Georgia also submitted information about the anticorruption reforms with regards to the protection of whistleblowers. For more information about the public access to information and protection of whistleblowers please refer to the **Question 1**.

**Question 5.** Examples of the **incorporation of human rights considerations in self-assessment** of implementation of the United Nations Convention against Corruption;

For information about the human rights consideration acknowledged by United Nations Convention against Corruption (UNCAC) such as right to participation, right to access to the public information, right to fair trial, independence of the judiciary please refer to the **Question 1**.

**Question 8.** Good practices for the **protection of victims, witnesses, reporting persons, anti-corruption activists, whistleblowers and other persons involved in the fight against corruption** which explicitly build on human rights standards.

For the information regarding protection of whistleblowers please refer to the **Question 1**.