

Decree of the President of Georgia

№376 2010 Year 3 June Tbilisi

On approval of Georgian National Anticorruption Strategy

1. “Georgian National Anticorruption Strategy” is hereby approved.
2. Georgian Government shall elaborate “National Anticorruption Strategy Implementation Action Plan” and submit to the President of Georgia for approval before 1 September, 2010.
3. Decree №550 of the President of Georgia dated 24 June, 2005 “on approval of Georgian National Anticorruption Strategy” is hereby repealed.

# Georgian National Anticorruption Strategy

2010

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## Preamble

Since the Soviet period, the level of corruption remained very high in Georgia. According to the experts' evaluation, in the 70-80s of 20<sup>th</sup> century the "black" - unregistered economy of Georgia exceeded 25 per cent of GDP. This problem persisted for a decade after Georgia's independence and was perceived as an integral part of the daily life in Georgia.

Active fight against corruption in the country started in 2003. Radical steps have been taken in order to eradicate corruption in state and public institutions and in a short period of time unprecedented results were achieved.

In particular, as a result of fundamental anticorruption reforms educational, judicial and penitentiary systems, police and entirely public sector were transformed and freed from corruption. Transparency of public institutions, their accountability to the public and public trust towards them enhanced.

Abovementioned achievements are reflected in the reports of international organizations. In particular, according to the Corruption Perception Index of Transparency International from 2003 till 2009 Georgia moved from 124<sup>th</sup> to 66<sup>th</sup> place. Such a leap is unprecedented in the history of this rating.

The Government of Georgia realizes that the fight against corruption is a continuous process and constant efforts are required in order to ensure sustainability of achievements.

In 2005 first anticorruption strategy of Georgia was adopted. The strategy defined the main principles of fight against corruption.

Experience of past years demonstrates that development of anticorruption strategy significantly increases effectiveness of combating corruption, serving as guidance for responsible and concerned parties.

Anticorruption strategy served as a basis for numerous reforms. As a result, institutional corruption is essentially defeated in the country. This is the result of the activities planned and implemented on the basis of anticorruption strategy.

At the moment, anticorruption outlook is significantly different. Therefore, at this point emphasis should be made on the prevention of corruption. There is a need to set new objectives, in order to consolidate achievements and be prepared for new challenges.

In order to maintain, strengthen and enhance already achieved results and established mechanisms as a result of sharing international experience, it was decided to update the anticorruption strategy.

Corruption manifests itself in many guises and negatively impacts development of the country. It is necessary to determine corruption-sensitive areas and to categorize types of corrupt acts common in these areas, in order to prevent bribery, embezzlement, fraud, extortion, abuse of power, leakage of state secrets, encroachment of national security, conflict of interest, trade in influence, use of information for commercial ends, favoritism and nepotism.

Corruption acts cause, on the one hand, problems in macro-fiscal sector, reduce possibilities for effective investment, increase poverty in the country, while, on the other hand, cause public frustration and loss of trust towards state institutions.

In 2008 Anti-Corruption Interagency Coordination Council was established. This Council is chaired by the Minister of Justice of Georgia. The members of the Council are the representatives of executive body as well as the representatives of legislative and judicial bodies, also the experts of non-governmental and international organizations. Major objective of the Council is elaboration of state anti-corruption policy and monitoring over the implementation of this policy. The Council is responsible for the elaboration of anticorruption strategy and the action plan; making amendments to mentioned documents and monitoring their implementation.

This document provides **situation analysis** in areas concerned, sets specific **objectives** and provides **guiding principles** required to achieve these objectives.

National Anticorruption Strategy of Georgia can be made subject to revision and amendment based on the monitoring of implementation.

The reports and conclusions of the international organizations (GRECO – Group of States against Corruption; OECD ACN –Anticorruption Network of Organization for economic and

Co-operation and Development and etc.) form the basis for further revision and amendment of the Strategy.

The monitoring of strategy implementation will be carry out based on the international ratings and studies such as: the global corruption barometer of international transparency and corruption perception index, the reports of “Global Integrity”, World Bank Doing Business and other similar studies.

Based on National Anticorruption Strategy, Georgian authorities will develop and adopt the Action Plan for the implementation of the Strategy, covering all themes of Strategy. Action Plan will define objectives, purposes and activities, responsible institutions and implementation timeframes.

The report on implementation of the Action Plan will be presented to the President of Georgia annually and will be public. The report will detail the progress in implementation of the Action Plan. Yearly conferences will be organized to discuss the report and to review the Action Plan, ensuring political, state and public support.

Enforcement of the Action Plan at operational level is the responsibility of management of corresponding state institutions. In addition it is recommended that the responsible institutions designate particular contact persons who will be in charge of collecting information on the implementation of the activities under the Action Plan by that institution. Reports on implementation of the Action Plan of the National Anticorruption Strategy will be presented, once per 6 months, by members of the Government to the Chair of Anticorruption Council.

According to the view of Georgian authority, fight against corruption is far easier in an environment that supports accountability and publicity. The main objectives of the Strategy are clear and unambiguous: establishment of effective state governance system, as well as increasing law enforcement response and public alertness toward corruption, and focusing on prevention of corruption.

## **1. Area: Efficient and Corruption-Free Public Sector**

### **1.1. Further Modernization of Public Service**

#### **Objective:**

Final objective is to establish efficient, transparent and flexible public sector that will minimize the risk of corrupt agreements. To this end, it is necessary to improve and reform public service policy.

#### **Situation Analysis:**

Reforms in public sector significantly improved the functioning of the system; however, public service remains a high-risk area for corrupt agreements. Therefore, there is a need for constant supervision of conditions for reforms implemented and providing legal remedies once abuse is identified.

There is a need for reforming finance and human resource management, as well as public sector policy. Respect for principles of accountability and transparency is equally important. It is necessary to improve legislation in order to ensure protection of whistleblowers and witnesses.

For the purpose of transparent and fair selection process of Public Service Personnel, and in order to minimize the nepotism and corruption risk, in Georgia operates Public Service Bureau. The main function of Public Service Bureau in the field of public service is to create and implement unified state policy. In order to improve the functions of Bureau, in July of 2009 reform process was started. The registration and appropriate management of Public Officials' Property and Income declarations were added to the functions of Bureau.

#### **Guiding principles:**

- Establishment clear public service policy;
- Improving Public Service Human Resources Management;
- For the personnel and career point of view, establishment of an open system of public service;
- Taking into consideration qualification of public servants, provide legal and institutional principles of objectivity and the effectiveness for transparent and merit-based recruitment, remuneration and promotion of public servants;

- The existence of adequate selection procedures for corruption in high-risk public positions ;
- Taking into account the development level of country, provide the existence of adequate and flexible wage policy of Public servants;
- In order to increase efficiency of performance of duties and increase awareness about the risks of corruption, provide opportunities to increase qualification and education of Public Servants;
- Preventing protectionism in order to facilitate development;
- Respect for principles of accountability and transparency;
- Improving the functioning of the Public Service Bureau;
- Facilitating more active use of legal remedies and public oversight;
- Continuing rationalization of public sector;
- Public-private partnership;
- Provide appropriate amendments in legislation;
- Adopt the Public Service Code;
- Refine the legal norms of whistle-blowers protection;
- Define the rights and duties of employees of Legal Persons of Public Law.

## **1.2. State and administrative services**

### **Objective:**

The final objective is to ensure customer-oriented and user-comfortable service of State Bodies (regarding functioning and decision-making process). To this end, sectoral service for the customer should be improved and its quality should be subject to constant monitoring; greatly simplified procedures for service provision should be developed and transparency of municipal service structures and their responsibilities should be ensured.

### **Situation analysis:**

Despite a number of institutional and structural amendments, agencies tasked with issuance of entitling acts and municipal services and supervision systems remain corruption-sensitive areas. It should be noted, however, that situation in this regard has improved significantly. Lack of information is a bar to development in this area. Violation of ethical rules in service provisions, avoiding consultation to customers and failure to respect deadlines for procedures are common place.

### **Guiding principles:**

- Improve the service standards of State and administrative agencies; sharing appropriate international experience;
- Applying procedures and regulations in order to supply to the society transparent information, concerning the functioning and decision-making process of public services;
- Improving service policies (service based on customer needs and requirements);
- Simplifying administrative processes, including applying and developing “one-stop-shop” principle where possible;
- Applying and developing “silent agreement” principle where possible;
- Clear separation of authority;
- Monitoring implementation of ethics rules;
- Not allowing possibilities of abuse and incorrect use of private sector's regulatory procedures, including, refining the procedures of market access and the awarding documents of granting rights;
- Ensuring the mechanisms in order to receive notes and proposals of citizens (persons receiving services); rapid responses on violations and in order to reduce the corruptions risks and increase effectiveness in public services, application of outsourcing (where it is possible);
- Refining the structure and functioning of the supervision services; not allowing possibilities of abuse and incorrect application of supervision procedures;
- Determine by legislation the obligation of publication of information;
- Provide appropriate amendments in legislation.

### **1.3. Improvement and control of state procurement Objective:**

The final aim is to improve state procurement to the extent possible and to ensure transparency of the system. Performance of this goal requires legislative amendments, oversight of performance of instructions related to state procurement and institutional capacity-building of State Procurement Agency. At the same time, in order to ensure transparency and reduce corruption, it is important to systemize available information concerning current and completed procurement (create common databases, at the central, as well as at the level of local government); ensure the accessibility to this information and maximum limitation of single-source negotiations.

### **Situation analysis:**

State procurement is one of the corruption-sensitive areas, since the process governs majority of expenditures from state and local budgets. Despite a number of amendments and additions to legislation in force on the basis of studies and analysis, as well as reorganization of the State Procurement Agency with a view of its establishment as an independent legal entity of public law, it is still necessary to supervise implementation of changes under the reform process and to provide rapid legal response in case where violations are identified. It is necessary to refine the legislation, in order to establish State procurements as a consistent and transparent system based on the international best practice.

### **Guiding principles:**

- Establishment of significantly detailed and transparent system; Taking into consideration the principles of transparency, adversarial and impartiality;
- Development of public control mechanisms that improve objectivity and transparency of the procurement process; including, through providing the publicity of information;
- Participation in the procedures of selection of suppliers of services or/and goods and preliminary determination of clear criteria of selection; During the decision-making process taking into account principles of objectivity and pre-established criteria;
- Offering e-service and e-procurement practices where possible;
- Establishment of the web-based interface for public procurement;
- Establish effective mechanisms for revision of process of procurements;
- Regulation of issues concerning the persons responsible for procurement processes; such as, for example, enhancing their qualification;
- Using and considering the recommendations of specialized international institutions and international best practice;
- Provide appropriate amendments in legislation.

## **1.4 Reform of Public Finances System**

### **Objective:**

Ultimate objective is to improve the financial management and efficiency of control of public expenditure; also ensure transparency of financial management.

### **Situation analysis:**

Since public sector reforms in 2003, the functioning of the system of public finances significantly improved. Government's position is that notwithstanding the achievements, the public management system, including the principles of accountability and publicity, still needs improvement.

According to the legislation, budgetary resource management process should be open for participation to parties concerned. Their involvement, taking into account budgetary policy and set objectives of the state, could be made possible at three different stages of public finance management:

- *Budget formation and analysis.* Parties concerned determine priorities for budgetary spending; develop alternative budgets; evaluate and voice their opinions on the allocation of budgetary funds for government-sponsored programs.
- *Expenditure monitoring and traceability.* Concerned parties conduct independent study on proper spending of budgetary resources.
- *Monitoring of state services.* Concerned parties monitor compliance of state services and products with expenses incurred.

### **Guiding Principles:**

- Improving Financial Management;
- Protection of principles of accountability and publicity;
- Support the legal and public reaction;
- Public expenditure monitoring and publicity of information;
- Provide transparent financing of public service; ensure and improve the principles of transparency and accountability in the field of public finances management;
- Ensure efficiency and transparency of the financial aid spending in Georgia;
- Provide appropriate amendments in legislation.

## **1.5 Improvement of Tax and Customs Systems**

### **Objective:**

Ultimate objective is to institutionally establish and refine customs and tax system in such a way that the possibility of corruption should be reduced.

**Situation analysis:**

In the fight against corruption customs and tax system still constitutes significant risk areas. Before Rose Revolution the highest number of corruption were in mentioned areas. Therefore it is important to pay a specific attention to these newly reformed systems.

Here should be mentioned changes made within the specific institutions and eventually corruption in these areas has been almost eliminated. It is important institutional strengthen these systems and consequently to preserve achieved results.

In the light of abovementioned it should be noted that high important is to strengthen the transparency and accountability of these systems, which also will increase State income and reduce unreasonable flow of money.

Another important problem is bribe for tax avoidance, so called administrative corruption. In order to avoid vital importance and significant problems on business environment caused by mentioned administrative corruption, it is important to refine and strengthen tax system.

**Guiding principles:**

- Increasing transparency level of tax and customs systems;
- Improving and refining principles of human resource selection process, as well as increasing of transparency level in this sphere;
- In order to provide the low possibility of interpretation and discretion establishing the strict regulations for working process of abovementioned institutions and distinct definition of tariffs;
- Adequate procedures for selection process of officials at the position of high risk
- Effective income policy for tax and customs systems' employees, taking into account level of State development;
- Opportunity for education and rise of qualification of employees of tax and customs systems in order to ensure effective performance of their duties and raise awareness concerning corruption risks;
- Protection of accountability and publicity principles:
- Using of digital services in maximum way;
- Control of tax and custom sphere based on relevant risk evaluation;
- Make the Specific amendments to legislation.

## 2. Area: Competitive and Corruption-Free Private Sector

### **Objective:**

The ultimate goal is to create a private sector that is fair, competitive, free of excessive state control and transparent, contributing to sustainable and rapid growth of the economy. This goal will be met once corrupt practices in the private sector are identified and defeated; fully competitive environment is present; transparency of economic policy formulation and development is ensured; entrepreneurship control mechanisms are improved; and commercial legislation is respected.

### **Situation analysis:**

Major reforms were undertaken in the country, drastically improving public sector system; reform of licensing and permit systems, technical regulations, commercial law and taxation ensured optimization of administrative barriers to entrepreneurial activity and legalization of major part of the business. Despite the progress, many efforts are still needed to achieve properly functioning regulation system, hampered greatly by lack of qualified personnel. There is a need for constant monitoring of reform conditions and rapid response to violations.

Council of Europe Criminal Law Convention on Corruption has been ratified. Legislative amendments required by the Convention have been undertaken and corruption acts in the private sector are now criminalized.

State supports and promotes the establishment of transparent principles of corporate governance in the country.

There is a need for more transparency in the banking sector, facilitating detection of suspicious transactions and eradication of money laundering. In this regard, non-banking financial institutions and businesses most frequently used for money laundering require more control.

In order to increase transparency, more oversight in terms of auditing entities is necessary.

The state should facilitate redistribution of concentrated economic powers, since eradication of state bribery is far more difficult in such environment. Economic influence over state policy decisions is, on one hand, prejudicial to economic policy reform and, on the other,

hampers development of the country. In such circumstances, monopolized and non-competitive market emerges.

Laws and regulation mechanisms that are elaborated and approved for the interests of specific companies, undermine creation of competitive environment and leads to deficient legislative framework.

The private sector is fully empowered to prevent the above-noted corruption practices once in it refuses to enter into corrupt agreements with state officials, develops corporate management framework and bases itself upon business ethics principles.

### **Guiding principles:**

- Liberalization of economic policy;
- Creation of conditions for strengthening competition;
- Removal of regulation where it is not required and overall reduction of regulation while ensuring maximum transparency;
- Streamlining barriers for entry into the market;
- Enhance the cooperation between the Revenue Service and relevant private sectors;
- Promoting transparency of private sectors, including access to information concerning the founders and the ruling circle;
- In order to avoid the conflict of interests, including after former public officials moving to the private sector;
- Facilitating the development of conditions and mechanisms for the internal audit in the private companies;
- Ensure the existence and promotion of the financial accounting records and relevant documentations in the private companies;
- Ensure the involvement of non-governmental organizations and public associations in the fight against corruption;
- Ensure public awareness of corruption, its causes, scope, risks and dangers;
- Refine the relevant supervision mechanisms of banks and other financial institutions; which will control transparency of monetary and other kinds of values in circulation, obtain information concerning the suspicious transactions, keep and share this information (among them, at the international level) and etc.;
- Financial institutions for money laundering should take into consideration the recommendations and instructions of relevant international and regional organizations;
- Support the cooperation between the appropriate regulatory agencies at the international level.

### 3. Area: Improvement of Justice Administration

#### Objective:

The ultimate goal is to establish **independent, fair, impartial judiciary and efficient law enforcement agencies.**

#### Situation analysis:

Reform of Judiciary constitutes one of the main priorities of the government. As a result of productive and effective measures, significant results have been achieved.

Consequent to the corruptive practice of Soviet Union the initial aim of the reform was to ensure independence of judicial authorities. Government is striving to achieve this aim and number of changes has already been made. The most significant progress (which was respectfully assessed by international and local institutions) was achieved towards releasing judiciary from influence of the executive authorities. The manifestation of the latter is deprivation of the right of President to appoint judges directly, as well as specific changes in appointment process of judges. Additionally, the action plan for the fundamental reform has been elaborated for the advancement of the judiciary..

The Constitution was amended to ensure the independence of the system. To ensure the effectiveness of the system it is expedient to monitor the compliance with principles of these reforms.

of the High Council of Justice was reorganized in compliance with GRECO recommendation for further development of the judiciary. High Council of Justice is chaired by the Chairman of Supreme Court. Other members of the High Council of Justice are 8 judges elected by the Conference of Judges, 4 persons appointed by the Parliament and 2 persons appointed by the President. Secretary of the Council is be appointed by Conference of Judges instead of President. The right to appoint judges was also transferred from the President to the High Council of Justice.

High School of Justice was established. In order to ensure motivation of court personnel, salaries of judges and court officials were increased. Principles of managing human resources

in judiciary were also developed and improved. Favorable number of judges was determined and qualified staff was selected on the basis of testing and other methods.

The system requires more transparency. It is also important to raise public awareness towards the procedures of law enforcement agencies. It is necessary to fully and effectively implement the Reform Action Plan.

### **Guiding principles:**

- Strengthening independence of the judiciary;
- Reduction of regulations to increase the impartial activities and decisions;
- significantly detailed and transparent system of procedures;
- Publicity of information about procedures and public consultations;
- Improvement of services in administration of justice and supervision of compliance with the Code of Ethics;
- Transparency of law enforcement activities.
- Development and prevention of the appropriate institutional mechanisms in order to minimize the possibility of interference in the activities of judiciary from executive authorities. ;
- Improvement of Witness Protection System;
- High level of public awareness in order to increase confidence degree;
- Establishment of Jury Institution;
- Regulation and Improvement of judges' salary system;
- Termless appointment of judges.

#### 4. Area: Anticorruption Legislation Reform

##### Objective:

The ultimate goal is to **establish effective anticorruption legislative framework and formation of corruption-free society**. To this end, it is required to develop mechanism to ensure transparency; prepare legislative amendments to improve the registration and procedures related to the income and property status of public officials, as well as to the property declarations; harmonization of Georgian legislation with the Council of Europe Criminal Law Convention on Corruption.

##### Situation analysis:

Despite the significant decrease of corruption incidents and reforms undertaken in this respect, certain efforts are still needed for improvement of legislative framework.

Anticorruption legislation shall be amended to make the law simple, laconic, exhaustive and unambiguous (in order to avoid its interpretation for private interests).

It is also necessary to ensure that the laws correspond to the capacities of state institutions concerned (in order to implement the legislation effectively).

##### Guiding principles:

- Institutional strengthening in fight against corruption;
- Developing mechanisms to ensure fair competition;
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- Taking into account state institutions' capacities for effective elaboration of anti-corruption legislation (for effective enforcement of law);
- Laws shall be clear and explicitly defined with the limited possibility for interpretation and discretion;
- Considering relevant international practice and recommendation of specialized institutions, first of all OECD CAN and CRECO;
- Proportionality of institutional capacities and risk of corruption.

## 5. Area: Prevention of corruption

### Objective:

Final objective is elimination of corruption practice at the level of prevention through establishing appropriate measures and regulations by special institutions.

### Situation Analysis:

In 2005 first anti-corruption strategy was adopted, which stipulated the principles of the long-term views on fight against corruption. Taking into account the new reality and in order to strengthen the achieved results and to enhance in future, the new anti-corruption strategy is created.

Since 2008 Anti-Corruption Interagency Coordination Council is functioning. This Council is chaired by the Minister of Justice of Georgia. The members of the Council are the representatives of executive, legislative and judicial authorities, as well as the experts of non-governmental and international organizations. The Council is responsible for the creation of anticorruption strategy and the action plan; for making amendments and monitoring their implementation. Additionally, the Council manages and coordinates the policy and measures undertaken on the basis of the strategy and the action plan.

### Guiding principles:

- The institutional strengthening of the Anti-Corruption Council and improvement of non-interference guarantees in the activities of Council;
- Provide the Council with financial and human resources guarantees on the legislative level;
- Strengthen the activities of Council and public awareness raising in this respect;
- Ensure the involvement of the society and non-governmental organizations in the activities of the Council.

## **6. Area: Financing of political parties**

### **Objective:**

Final objective is to create transparent and liberal political environment in Georgia based on democratic standards, to increase political culture of the current political subjects, to establish adequate and explicit rules for financing and expenditures of political parties as a result of international experience and recommendations of relevant international institutions.

### **Situation analysis:**

Georgia constitutes a young democratic State, whose recent state history doesn't exceed 20 years. Without doubt the latter has a considerable impact on the standards and level of development of political parties in the State.

It should be mentioned that after the Rose Revolution there is a significant progress in process of funding political parties and development of the political environment of Georgia.

In general, condition of political parties financing process is one of the main indicators for assessment of the level of political environment and development of the political parties..

Financing of the political parties is regulated by the Organic Law of Georgia on Political Unions of Citizens. It defines the sources of financing and expenditure matters of the parties, besides it pays specific attention to the issues of transparency of financing (in particular, the origin of financing) of parties.

Therefore there is need for further improvements of abovementioned regulations and also need to bring them in compliance with international standards.

It is important that the main issues concerning the political parties is settled through dialogs and agreements between parties.

### **Guiding principles:**

- Using recommendation of international practice and specialized institutions, foremost recommendation of OECD ANC Second Round of Monitoring and CRECO Third Round of Monitoring, in order to further improve principles envisaged by legislation;
- Improving the financing of public sector and political parties, as well as election campaign (and expenditures); Guided by the principles of traceability;

- Taking into consideration abovementioned principles and standards further refining the existed situation by means of dialogs between authorities, political powers, relevant international organization and civil society.
- Taking decision through method of dialogs between interested parties, such as political parties, Central Election Commission and others;
- Establishing transparent and effective system of monitoring, reporting, prevention and sanctions.