

Business Integrity in Georgia

Operational Environment and Internal Mechanisms



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I. Executive Summary

This research is based on the Business Integrity Country Agenda (BICA) methodology developed by the Transparency International Secretariat. Its goal is to assess the corruption risks facing private sector of a given country. To identify these risks, one needs to analyse both the internal state of the private sector itself and the general environment in which this sector operates.

Overall, Georgia has a good legal base for preventing corruption. All main kinds of corruption in the country have been criminalised, including taking and giving bribes (in both public and private sector) and money laundering.

At the same time, the enforcement of the law is often inefficient, especially when high-level corruption is at issue. The main reason for this is the fact that the agencies responsible for the investigation of corruption are not sufficiently independent from the ruling party and the ruling party's founder and recent leader's informal influence on their work. Such influence also creates a possibility of using anti-corruption investigations as an instrument of retaliation against companies and businessmen that the government deems undesirable.

Furthermore, the enforcement of the provisions of the law which serve to prevent the conflict of interests in the public sector and protect whistleblowers is not particularly efficient, which can be partially explained by the shortcomings of the law itself and partially by the absence of the adequate enforcement mechanisms.

The Georgian legislation contains important provisions to ensure transparency of political donations, however, in practice, these provisions are often circumvented or violated, usually without drawing any effective response.

The public procurement system is mostly transparent, although the share of non-competitive procurements is high. Other potential sources of corruption in public procurement include the opaque procedure of using subcontractors, participation of individuals convicted of corruption in public procurement, and the so-called "rigged tenders". In addition, the law enforcement bodies do not properly investigate alleged corruption-related cases in the public procurement process.

Georgia's tax and customs systems are generally transparent. However, the absence of independent judiciary means that business is not adequately protected from the possibility of unjust and unlawful treatment.

The country's legislation prohibits activities aimed at limiting competition. Nevertheless, there are well-founded suspicions concerning the efficiency and independence of the Competition Agency responsible for enforcing these provisions.

The legislation adequately regulates accounting and audit activities of companies. However, the information about companies' beneficial owners is not publicly available, which makes business less transparent and increases potential corruption risks.

Internal anti-corruption mechanisms of businesses are weak. Only a small portion of the country's largest companies examined within the framework of this research have made public the information about their anti-corruption mechanisms and programmes.

The level of business transparency is low. Companies rarely publish audit reports, information about their management structure, amounts spent on lobbying and political donations, remuneration of their boards of directors and top managers or possible conflict of interests.

The supervisory work of companies' boards of directors is not particularly efficient. The accountability of companies before their internal stakeholders (shareholders, stockholders, employees) is weak.

The private sector is passive when it comes to participating in the process of developing and implementing the country's anti-corruption policy, both at the level of individual companies and business associations.

Civil society and media are important actors in terms of corruption prevention. However, civil society and business rarely cooperate in combating corruption, while the infringement on media independence on the part of the government has a negative impact on their work.

To address the problems listed above, it is important:

- To ensure efficient enforcement of the country's anti-corruption legislation, including by forming an independent anti-corruption agency;
- To eliminate improper party and informal influence on public institutions;
- To ensure independence of the judiciary;
- For the business sector, to be more active in terms of the development of its internal anti-corruption mechanisms and ensuring transparency of its own activities as well as in terms of participation in the anti-corruption efforts of the government and civil society;
- To put a stop to any attempts to infringe upon media independence.

The complete list of recommendations is provided in the final chapter of the study.

II. Introduction

1. About the Research

This research is based on Transparency International's Business Integrity Country Agenda (BICA) methodology which seeks to outline the general state of affairs with regard to business integrity in a given country and to facilitate a successful implementation of anti-corruption reforms in the private sector.

The goal of this report is to become an important guideline of preventing and responding to corruption in business practices.

The evaluation framework of the report includes three key sectors: public sector, private sector, and civil society and media. The report assesses the following factors:

- **Public sector's** activities to prevent, reduce and respond to corruption in private sector, which implies the evaluation of the corresponding legislation and practice in Georgia;
- **Private sector's** activities, which include the Georgian business sector's activities to prevent, reduce and respond to corruption-related cases;
- **Civil society's role** and activities of non-governmental organisations aimed to prevent, reduce and respond to corruption in private sector.

Each one of the sectors listed above includes thematic areas. Such issues as public procurement, whistleblowers' protection mechanisms, companies' internal anti-corruption mechanisms and others are evaluated within the thematic areas included in the report.

Each thematic area includes several indicators which assess the efficiency of a specific legal provision or practice within a sector. In accordance with the methodology, each indicator is assigned a score based on the evaluation criteria. Based on the indicator scores, an average score is calculated for corresponding thematic areas.

When preparing the report, the researchers collected and assessed data concerning the aforementioned topics based on the methodology. This report contains an overview of the state of affairs in each sector and evaluation scores for corresponding indicators. The detailed information concerning the research conducted for each indicator (including the sources used in the research) will be published as an annex on the website of Transparency International Georgia and be available to all interested parties.

2. Political Context

In recent years, Georgia has failed to consolidate democratic structures.¹ The problem of informal rule over the political system still prevails in Georgia. The person considered to be the key figure in these processes is former Prime Minister Bidzina Ivanishvili, the country's wealthiest citizen and a recent leader of the ruling Georgian Dream party, who exerts undue influence on both the government and the Parliament. Correspondingly, the political decision-making process in Georgia is significantly influenced by one person.²

Despite the fact that the Georgian legislation provides the Parliament and its members with considerable guarantees of independence, in practice, the legislative body's independence is not properly ensured.³

There are challenges with regard to the independence and transparency of the judiciary, too. Consequently, numerous suspicious court decisions prevailed in recent years. Overall, the procedures of nominating and appointing the Supreme Court judges have had a negative impact on the transparency and independence of the judicial system.⁴ Political influence on the judiciary and its work remains one of the key challenges for the country, along with the lack of transparency and professionalism in this area. The right to fair trial envisaged by the law is not always ensured in practice.⁵

3. Economic Context

According to the World Bank, Georgia is in the category of the upper-middle-income countries. As of 2019, income per capita amounted to USD 4,696. It is noteworthy that the crisis caused by COVID-19 has impacted Georgia's economy, too, and, as of August 2020, GDP per capita decreased by 5.3%.⁶

¹ Freedom House, *Nations in Transit 2020, Georgia, 2020*, <https://freedomhouse.org/country/georgia/nations-transit/2020>

² Freedom House, *Nations in Transit 2020, Georgia, 2020*,

³ Transparency International Georgia, *Georgia National Integrity System Assessment 2020*, 26 June 2020, p. 27.

⁴ Freedom House, *Nations in Transit 2020, Georgia, 2020*,

⁵ Transparency International Georgia, *Georgia National Integrity System Assessment 2020*, 26 June 2020, pp. 16-17, <https://transparency.ge/ge/post/sakartvelos-erovnuli-antikorupciuli-sistemis-shepaseba-2020>

⁶ World Bank Georgia, *Georgia Overview*, (last updated 12, October, 2020), <https://www.worldbank.org/en/country/georgia/overview>.

The unemployment rate in Georgia, according to the data from the third quarter of 2020, was 17%.⁷ According to the 2019 data, 19.5 % of the population of Georgia lived under the absolute poverty line.⁸ In 2005-2019, poverty level decreased by 16% but, as a result of the COVID-19 pandemic, an economic crisis is expected to occur in Georgia which will likely cause the economy to contract by 6% and result in severe losses of jobs and income that could increase the level of poverty by 2.8 percentage points.⁹

The poverty and development indicators in Georgia differ significantly from region to region. Poverty is particularly noticeable in rural areas, which considerably hampers inclusivity and social mobility. Some 38% of the workforce are employed in agriculture,¹⁰ although the share of agriculture in GDP is a mere 7.4%.¹¹

In 2020, foreign direct investments (FDI) were half of what they were in 2019. For example, FDI in 2019 amounted to approximately USD 1.3bn, while in 2020 (including October) this indicator was as low as USD 719m.¹² This can be to a great extent explained by the pandemic caused by COVID-19 among other factors.

Georgia's trade deficit in 2020 was USD 4.2bn. In 2019, the trade deficit was GEL 5.1bn, which means the reduction of the deficit by 19%.¹³

4. Structure of Business Sector

The service sector makes up 73% of Georgia's economy, industry accounts for 20% and agriculture – for 7.4%.

⁷ National Statistics Office of Georgia, Employment and Unemployment, <https://www.geostat.ge/ka/modules/categories/38/dasakmeba-da-umushevroba>

⁸ Agenda.Ge, *2019 data: 19.5% of Georgia's population under absolute poverty line*, 29 May, 2020, <https://agenda.ge/en/news/2020/1685>

⁹ World Bank Georgia, Georgia Overview, (last updated 12, October, 2020), <https://www.worldbank.org/en/country/georgia/overview>.

¹⁰ Transparency International Georgia, *Georgia National Integrity System Assessment 2020*, 26 June 2020, p. 18, <https://transparency.ge/ge/post/sakartvelos-erovnuli-antikorupciuli-sistemis-shepaseba-2020>

¹¹ National Statistics Office of Georgia, Employment and Unemployment, <https://www.geostat.ge/ka/modules/categories/196/soflis-meurneoba>

¹² National Statistics Office of Georgia, Foreign Direct Investments, <https://www.geostat.ge/en/modules/categories/191/foreign-direct-investments>

¹³ National Statistics Office of Georgia, External Merchandise Trade in Georgia, 12 December 2020, p. 2, <https://www.geostat.ge/media/35468/%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1%E1%83%A1%E1%83%90%E1%83%92%E1%83%90%E1%83%A0%E1%83%94%E1%83%9D%E1%83%95%E1%83%90%E1%83%AD%E1%83%A0%E1%83%9D%E1%83%91%E1%83%90%E1%83%98%E1%83%90%E1%83%9C%E1%83%95%E1%83%90%E1%83%A0%E1%83%98%E1%83%9C%E1%83%9D%E1%83%94%E1%83%9B%E1%83%91%E1%83%94%E1%83%A0%E1%83%98---2020.pdf>

Despite the fact that the share of agriculture in the economy is 7.4%, the share of people employed in this sector is 42.6% of all those employed in the country. At the same time, 98% of those employed in the agriculture sector are self-employed. Over 40% of Georgia's territory is considered agricultural land, which includes pastures and grassland.¹⁴

The industrial sector in Georgia is growing at a moderate pace. It comprises 20% of GDP and 13.2% of the employed population. The industrial sector mainly consists of food processing and manufacturing of transport equipment, electric engines, iron, steel, airplanes, chemicals and textiles.¹⁵

The government has privatised large formerly state-owned companies. This includes real estate, telecommunications, production and distribution of electric energy, banking, water supply and port service sectors.¹⁶

The service sector is the most dynamic sector in Georgia. Services comprise 73% of Georgia's GDP with 44% of the workforce employed in this sector. The sector mainly includes hotel, restaurant, transport and telecommunication industries.¹⁷

There are approximately 723,000 companies registered in Georgia but only 25% of them are active. More than 85% of all companies in Georgia are small enterprises; 9% are medium-sized enterprises.¹⁸ More than half of small and medium-sized business enterprises are concentrated in Tbilisi, while the rest are mostly located in Imereti and Adjara regions. Small and medium-sized enterprises are an important source of economic activity in Georgia's economy. According to the assessment by the National Statistics Office of Georgia, small and medium-sized enterprises provide 67% of employment and 61.5 % of the total value added.¹⁹

5. Corruption

Petty corruption is not wide-spread in Georgia, although high-level corruption which is related to the concentration of power, informal influence on public institutions and the problem of state capture remains a serious challenge.²⁰ Recent public opinion surveys conducted in Georgia confirm this as well.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ OECD, *Access to Green Finance for SMEs in Georgia*, 19 December, 2019, chapter 2, <https://www.oecd-ilibrary.org/sites/4a217b07-en/index.html?itemId=/content/component/4a217b07-en>

¹⁹ Ibid.

²⁰ Transparency International Georgia, *Corruption and Anti-Corruption Policy in Georgia: 2016-2020*, 20 October 2020, <https://transparency.ge/ge/post/korupcia-da-antikorupciuli-politika-sakartveloshi-2016-2020-clebi>

Only 1% of respondents say that they or their family members have had to pay bribes in exchange for a public service. At the same time, similar to previous years, the number of respondents who believe that high-level corruption is wide-spread in Georgia continues to significantly exceed the number of respondents who think that this kind of corruption is not wide-spread in the country.²¹

In 2016-2020, corruption risks related to public procurement have remained a challenge. The fact that a significant portion of donations to political parties was received by the ruling party while numerous representatives of the ruling party receive money through public procurement raise well-founded suspicions. Similar to the previous period, the failure to investigate suspected corruption-related activities of high-ranking officials and influential individuals connected to the ruling party has remained a problem in the past several years as well.²²

The resolution passed by the European Parliament in 2018 mentions the so-called “elite corruption” as a significant challenge for Georgia. The resolution also notes that there is no effective practice of investigating this kind of corruption-related cases in the country. The resolution calls on Georgia to create an independent anti-corruption agency which would hold an investigative power, would not be part of the State Security Service, and be free from external political intervention.²³

²¹ Transparency International Georgia, *Corruption and Anti-Corruption Policy in Georgia: 2016-2020*, 20 October 2020, <https://transparency.ge/ge/post/korupcia-da-antikorupciuli-politika-sakartveloshi-2016-2020-clebi>

²² Transparency International Georgia, *Corruption and Anti-Corruption Policy in Georgia: 2016-2020*, 20 October 2020, <https://transparency.ge/ge/post/korupcia-da-antikorupciuli-politika-sakartveloshi-2016-2020-clebi>

²³ European Parliament, REPORT on the implementation of the EU Association Agreement with Georgia (2017/2282(INI)), 15 October, 2018, https://www.europarl.europa.eu/doceo/document/A-8-2018-0320_EN.pdf?redirect

III. Assessment

1. Public Sector

Prohibiting bribery of public officials

The Georgian legislation contains adequate provisions on prohibiting bribery of public officials, both giving and receiving bribes. These actions are punishable under the Criminal Code. The relevant articles of the Code are applicable to Georgian public officials as well as those of foreign countries and international organisations.

The legal definition of a bribe is quite broad and includes not only monetary and other material gains but also requesting and receiving undue advantage, action or inaction that favours a person paying a bribe, using official standing to achieve such a goal, patronage. According to the Code, influence peddling is also a punishable offence. The Code establishes corresponding statutes of limitations for these crimes.

The Criminal Code also envisages criminal liability for legal persons, including for corruption-related crimes. It should be assessed negatively that the law does not envisage mitigation of responsibility for those legal persons which prove that they have appropriate internal anti-corruption mechanisms and have implemented all reasonable measures to prevent their employees from committing corruption-related crimes. The existence of such a mechanism in the legislation would be an incentive for the companies to ensure the development of real and effective internal anti-corruption mechanisms.

Furthermore, the minimum sentence envisaged for bribery (six years' imprisonment) is excessively harsh and, as a result, some cases of petty corruption (for which six years' imprisonment could be a disproportionately harsh punishment) could be completely overlooked.

In Georgia, various agencies are tasked with identifying corruption, including the Anti-Corruption Agency of the State Security Service (SSS), the Prosecutor's Office and the Financial Monitoring Service of the Ministry of Finance.

The funding of these institutions from the budget has been increasing each year, and there is no indication that they have been suffering from the lack of either material or human resources.

The law enforcement bodies do some work investigating corruption and manage to uncover a number of corruption-related cases each year.

However, overall, investigation of corruption in Georgia is not efficient enough, and the main reason is insufficient independence of the law enforcement bodies. The country's key anti-corruption agencies are suffering from the undue influence of the ruling party and informal influence of its founder and recent leader, which, among other factors, is expressed by the trend of appointing those with personal connections to the ruling party's founder and recent leader as the heads of these agencies.

As a result, the law enforcement bodies fail to effectively respond to the alleged cases of high-level corruption.

Prohibiting commercial bribery

Commercial bribery (both active and passive form) is a punishable offence according to the Georgian Criminal Code. The definition of commercial bribery established by the Code is sufficiently broad and includes not only money and other material goods but also receiving or demanding undue advantage, actions or failure to act and so on.

The Georgian law enforcement bodies respond to commercial bribery cases in practice too. Dozens of such cases were uncovered in the past several years.

Similar to other types of corruption, in case of investigating corruption in the private sector, too, the work of the law enforcement bodies is suffering from a negative impact caused by their insufficient autonomy and undue influence on the part of the ruling party, which creates a risk that the investigation of corruption in the private sector could be used as an instrument of pressure on persons or companies that the government deems undesirable. The criminal prosecution against Mtavari Arkhi TV Company director can serve as an example.

Prohibiting laundering of proceeds of crime

The Criminal Code of Georgia contains a sufficiently broad definition of legalisation of illegal income, which includes legalising illicit or undocumented property (by conversion, transfer or other way), concealing its origin or assisting another person in a similar action, or other.

The Law on Facilitation the Prevention of Money Laundering and Terrorism Financing stipulates the measures to prevent and combat this kind of crime. According to the law, banks and other financial institutions are obligated to provide relevant state agencies with information about any suspicious transaction.

The approval in 2014 of the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing should be mentioned here as a positive development, along with a number of legislative amendments aimed at improving the procedure of confiscating illicit and undocumented assets.

At the same time, the current legislation is not efficient enough in regulating the so-called Designated Non-Financial Businesses and Professions the context of money laundering (for example, lawyers, real estate agents, precious metals and gem dealers, casinos).

The legislation defines reasonable penalties and statutes of limitations for money laundering crimes, however, as with other corruption-related crimes, money laundering does not envisage mitigated sentences for the companies which can prove that they have appropriate internal anti-corruption mechanisms and that they have taken all reasonable measures to prevent their employees from committing a corruption-related crime. The existence of such a mechanism in the legislation would be an incentive for companies to ensure the creation of real and effective internal anti-corruption mechanisms.

In practice, the key agencies responsible for combating laundering illicit income are the Financial Monitoring Service and the corresponding department of the Prosecutor's Office which have solved dozens of such cases in recent years, confiscating tens of millions of lari in illicit income and assets.

These agencies do not lack material resources although undue political influence on the part of the ruling party has a negative impact on their work, which creates a possibility of using them for parochial political goals and reprisal. Initiating criminal prosecution against the founders of TBC Bank under the pretext of their alleged involvement in money laundering can serve as an example.

Prohibiting collusion

The Law of Georgia on Competition prohibits actions aimed at restricting competition, such as abuse of dominant position, contracts, decisions or collusion limiting competition, including fixing prices; limiting production, market, technological development or investment; market division, offering different conditions to different trading partners on identical transactions.

The body responsible for enforcing competition legislation is the Competition Agency which can review actions, as defined by the law, and impose sanctions on perpetrators. According to the law, persons who cooperate with the Agency during an investigation can be partially or fully relieved of liability.

The information about the efficiency of the Agency's work in practice is mixed. It is particularly alarming that there are signs of undue political influence on the work of the Agency, which became apparent during the 2018 dispute between local and foreign companies operating in the tobacco market, and which caused suspicions with regard to the Agency's independence and impartiality.

Whistleblowing

The Georgian legislation contains basic provisions on whistleblowing and whistleblower protection. While only a public official could be a whistleblower in the past, today, information provided by any citizen to a person or institution defined by the law can be considered whistleblowing.

A whistleblower can provide information to a relevant department of an agency, the Prosecutor's Office, an investigator or the Public Defender. Whistleblowing can be anonymous. The law provides protection for whistleblowers and prohibits the use of threats, harassment, coercion, humiliation, persecution, or pressure against them or cause of moral or material damage to them.

The fact that whistleblower protection in the law enforcement bodies and the Ministry of Defence remains unregulated by the law to this day merits a negative assessment, as well as the fact that whistleblowers are prohibited from whistleblowing by means of the media and civil society before relevant public institutions complete their consideration of whistleblowers' statements.

The enforcement of the provisions concerning whistleblowing and whistleblower protection is extremely weak in practice. The public sector does not have a uniform practice of considering whistleblower statements and keeping corresponding records. No agency has been tasked with elaborating such practice and ensuring efficient operation of the whistleblowing mechanism. The number of whistleblower statements submitted through a special web page has decreased considerably in the recent period.

Accounting, auditing and disclosure

The Law of Georgia on Accounting, Reporting and Auditing requires the companies operating in the country to comply with the international standards of accounting and audit.

The law defines the rules of conducting accounting and financial reporting, contains provisions on audit procedures and frequency.

Companies are obligated to regularly prepare financial reports in accordance with the criteria stipulated by the law as well as create internal control systems which would ensure that their reports are accurate and compliant with the law.

According to the law, companies are divided into four categories and their reporting obligations are determined by their corresponding category. Large companies and "Public Interest Entities" (including companies whose stocks are traded in the stock market, commercial banks, insurers and microfinance organisations) are obligated to conduct regular audit of their financial reports in accordance with the procedure envisaged by the law.

The Service for Accounting, Reporting and Auditing Supervision is the body responsible for ensuring the enforcement of the legal requirements. It collects and publishes the reporting documents submitted by companies. The Service is authorised to check the compliance of the reports with the requirements of the law and, if needed, impose sanctions on those who commit violations.

The law regulates the process of certifying accountants and auditors, and the activities of the corresponding professional associations. The Service maintains a public registry of certified auditors and audit firms. The law also contains provisions on ensuring independence and ethical conduct of auditors.

A significant shortcoming of the law is the absence of provisions on mandatory public disclosure of information about companies' beneficial owners.

Prohibiting undue influence

As noted above, a significant problem in terms of integrity of the public sector in Georgia is the informal influence of the founder of the ruling party on public institutions.

The Georgian legislation envisages budget funding for political parties. The amount of this funding depends on the parties' election results. At the same time, the legislation prohibits the use of administrative resources (including budgetary resources, public buildings and transport) for the purposes of election campaigns.

The law allows parties and candidates to accept monetary and non-monetary donations, and determines their cap amounts. Accepting anonymous donations is prohibited.

The information about financing of political parties and campaigns is public. Parties and candidates are obligated to present to the State Audit Office the information about their donations and expenses, while the Office publishes these reports on the internet.

Despite the existence of this legal provision, in practice, there are serious problems concerning transparency of political party and campaign finances. Circumventing the legal provisions establishing a cap amount of donations by means of fictitious donors is a frequent occurrence that usually draws no effective response. The lack of resources available to the State Audit Office and indifferent attitude on the part of the law enforcement bodies when this kind of crimes are at issue are the likely reasons. Also, despite the restrictions established by the law, administrative resources are frequently used for the purposes of conducting election campaigns.

Lobbying activities in Georgia are regulated by the law: lobbyists must undergo mandatory registration and submit regular reports about their activities. In practice, however, the complete information about lobbyist activities is not proactively disclosed – currently, only the Parliament has a list of registered

lobbyists published. At the same time, it is unclear whether this list fully reflects the lobbying activities under way in the legislative body in reality.

Public officials are under the obligation to submit annual asset declarations which include information about their assets, income, business shares and presents. These declarations are public and can be accessed by means of a special website.

The Civil Service Bureau checks a portion of asset declarations submitted by public officials every year, although this review is mostly focussed on checking the accuracy of information provided in the declarations and does not pay too much attention to uncovering possible conflicts of interests.

The Georgian legislation contains certain basic provisions to regulate possible cases of the conflict of interests related to private sector representatives moving to public office (so-called “revolving door” process). However, these provisions are deficient, while their enforcement in practice is not monitored at all.

Public procurement

Georgia has a transparent public procurement system. A large portion of procurements is conducted through electronic tenders, and almost all stages of the process (announcing tenders, submitting offers, selecting winners and signing contracts) are public, while the corresponding documents are published on a special website.

At the same time, a high share of non-competitive (direct) procurements in the overall volume of public procurements remains problematic. This is caused by legal shortcomings: specifically, the law allows conducting procurement without a competitive tender in some of the cases when there is no real and substantiated need to do so.

The problem of simplified procurements became even more apparent during the state of emergency declared due to the COVID-19 pandemic. During the state of emergency (from 21 March until 22 May 2020), 11,317 contracts worth GEL 127.2m were signed through simplified procurement procedure. Almost half of them, amounting to GEL 57m, were concluded on an urgent basis. Despite the fact that the law does not prohibit speeding up procurement on this basis, it remains problematic that this kind of procurements are frequent and the selected suppliers are connected to the ruling party. For example, companies linked to political donations made to Georgian Dream and Salome Zurbishvili at various times were awarded direct procurement contracts worth at least GEL 45m in total during the state of emergency, which amounts to 35% of the amount spent on procurement during the state of emergency.²⁴

²⁴ Transparency International Georgia, *Public procurement during the state of emergency: Basic data analysis and corruption risks*, 7 July 2020, <https://transparency.ge/ge/post/sagangebo-mdgomareobis-periodshi-ganxorciebuli-saxelmcipo-shesqidvebi-ziritadi-monacemebis>

Further problems arise from the opaque procedure for using subcontractors in public procurement and the alleged existence of rigged tenders.

The anti-corruption provisions which govern the activities of public institutions and public officials and which were described in previous sections apply to the procuring agencies and their employees. Correspondingly, the problems with enforcing the provisions discussed above are also relevant in the context of public procurement.

The State Audit Office examines public spending in the area of public procurement, while law enforcement bodies are authorised to investigate possible cases of corruption in the process of public procurement. However, the fact that many suspicious occurrences or trends uncovered in the public procurement system in recent years have drawn no appropriate response indicates that corruption prevention mechanisms in public procurement are not sufficiently effective at this time.

It merits a negative assessment that the legislation does not require companies which participate in public procurement to have internal anti-corruption mechanisms. Moreover, the legislation does not prohibit participation in public procurement of persons and companies convicted of corruption.

Taxes and customs

The tax and customs systems of Georgia are overall transparent and efficient. Corresponding procedures and rates are defined by the law, and the use of digital technologies is widespread in practice, which limits the power of discretion of individual officials and, correspondingly, reduces corruption risks.

At the same time, large-scale tax amnesties are not sufficiently transparent, which creates a risk of using them as an instrument of party politics and of corruption.

There are certain internal anti-corruption mechanisms operating within the system of taxation. Specifically, for employees of the Revenue Service, mandatory rules of conduct are in place, which also regulate corruption-related issues.

The general rules that concern prevention of corruption and conflict of interests in public service in Georgia apply to the employees of the tax and customs systems. As noted in the previous section, the enforcement of these rules in practice is often problematic, including in the area of whistleblower protection.

There is an institution of the Business Ombudsman operating in Georgia. Companies can address the Business Ombudsman if their rights are violated, although, at the moment, it is difficult to evaluate how effective this institution is in practice.

Problems related to independence and impartiality of the judiciary in Georgia are particularly alarming in the context of protecting company rights vis-à-vis the state as they weaken the effectiveness of the judiciary as an important instrument of protection of business.

Scores for thematic areas and indicators for the public sector:

1.1 PROHIBITING BRIBERY OF PUBLIC OFFICIALS	58
1.1.1. Laws Prohibiting Bribery of Public Officials	100
1.1.2. Enforcement of Laws Prohibiting Bribery of Public Officials	50
1.1.3. Capacities to Enforce Laws Prohibiting Bribery of Public Officials	25
1.2 PROHIBITING COMMERCIAL BRIBERY	66
1.2.1. Laws Prohibiting Commercial Bribery	100
1.2.2. Enforcement of Laws Prohibiting Commercial Bribery	50
1.2.3. Capacities to Enforce Laws Prohibiting Commercial Bribery	50
1.3 PROHIBITING LAUNDERING OF PROCEEDS OF CRIME	66
1.3.1. Laws prohibiting laundering of Proceeds of Crime	100
1.3.2. Enforcement of Laws Prohibiting Laundering of Proceeds of Crime	50
1.3.3. Capacities to Enforce Laws Prohibiting Laundering of Proceeds of Crime	50
1.4. PROHIBITING COLLUSION	66
1.4.1. Laws Prohibiting Collusion	100
1.4.2. Enforcement of Laws Prohibiting Collusion	50
1.4.3. Capacities to Enforce Laws Prohibiting Collusion	50
1.5. WHISTLEBLOWING	50
1.5.1. Whistleblower Laws	75
1.5.2. Enforcement of Whistleblower Laws	25
1.6. ACCOUNTING, AUDITING AND DISCLOSURE	81
1.6.1. Accounting and auditing standards	100
1.6.2. Enforcement of Accounting and Auditing Standards	100
1.6.3. Professional Service Providers	100
1.6.4. Beneficial Ownership	25

1.7. PROHIBITING UNDUE INFLUENCE	58
1.7.1. Laws on Political Contributions	100
1.7.2. Enforcement and Public Disclosure of Political Contributions	50
1.7.3. Laws on Lobbying	75
1.7.4. Enforcement and Public Disclosure on Lobbying	25
1.7.5. Laws on Other Conflicts of Interest	50
1.7.6. Enforcement and Public Disclosure of other Conflicts of Interest	50
1.8. PUBLIC PROCUREMENT	50
1.8.1. Operating Environment	50
1.8.2. Integrity of Contracting Authorities	50
1.8.3. External Safeguards	50
1.8.4. Regulations for the Private Sector	50
1.9. TAXES AND CUSTOMS	58
1.9.1 Operating Environment	75
1.9.2 Integrity of Tax Administration Authorities	50
1.9.3 External Safeguards	50

2. Private Sector

Integrity management

Georgian companies rarely publish information about their internal anti-corruption mechanisms, which is likely to indicate that such mechanisms are either weak or non-existent.

Among the 20 companies evaluated within the framework of this research, only seven have information about their internal ethics and anti-corruption regulation published on their websites. Only five companies have information about whistleblowing procedures published.

According to the World Economic Forum, as of 2018, Georgia ranked 66th among 140 countries in terms of observing the norms of ethics by business entities.

The fact that companies are, in all likelihood, using their employees as fictitious donors in order to circumvent the provisions regulating financing of election campaigns is indicative of some companies' possible involvement in political corruption.

Auditing and assurance

As noted in the relevant section above, the legislation regulates companies' obligations with regard to regular reporting and auditing.

However, companies rarely publish corresponding information. Among the 20 companies examined in the process of this research, only four have published annual audit reports on their websites.

It merits a positive assessment that the information about audits conducted by companies is available on the special portal created by the Service for Accounting, Reporting and Auditing Supervision.

According to the most recent (2019) report published by the Service, the number of audits conducted by companies is increasing each year. Some 26,000 companies submitted their accounting and audit reports to the Service in 2018.

Transparency and disclosure

Georgian companies rarely publish information about their internal governance.

As mentioned above, only a small portion of the large companies studied for this research have information about internal anti-corruption mechanisms and programmes published on their websites.

Among the 20 companies reviewed, only seven have information about governance and organisational structure published.

Neither do the companies publish information about political donations they make or about the amounts spent on lobbying activities and sponsorship.

Georgia's underdeveloped stock exchange also has a negative impact on business transparency in the country.

Stakeholder engagement

Since Georgian companies rarely disclose information about their internal governance, it is difficult to make a comprehensive evaluation of how actively various stakeholders (including shareholders and employees) are involved in company governance or are able to do so. The limited information that is available indicates that companies' stakeholder accountability is, generally, weak.

No significant anti-corruption initiatives spearheaded by business – independently or in cooperation with public institutions or civil society organisations – have been implemented in recent years. Business sector representatives are invited to participate in the country's Anti-Corruption Council but their involvement in this format is mostly passive.

In order to increase accountability and transparency in corporate governance, it is important for the country to have a stable and strong stock exchange and securities market. Georgia's securities market is still significantly underdeveloped. Georgia's securities market mainly consists of a small stock exchange, a central securities depository and several brokerage firms.

The business associations operating in the country are not particularly active with regard to anti-corruption programmes either.

Board of directors

The supervisory activities of boards of directors in Georgian companies. One of the widespread reasons for this is inadequate qualification of their members. According to the Global Competitiveness Report 2017-2018, Georgia ranked 92nd in terms of efficiency of supervisory boards.

Companies rarely disclose information about the remuneration of their board members and senior management. Only three out of 20 large companies examined within the framework of this research have disclosed this kind of information. In this context, too, the fact that the country's stock exchange is underdeveloped should be mentioned as a negative factor.

The legislation regulates to a certain extent the activities of companies' board members; however, the law is sufficiently detailed with regard to the regulation of the conflict of interests only in case of banks. Companies themselves do not disclose information about their board members' possible conflict of interests (for example, other positions they hold, financial investments, and employment of their relatives).

Scores for thematic areas and indicators for the private sector:

2.1. INTEGRITY MANAGEMENT	25
2.1.1. Provision of Policies	25
2.1.2. Implementation of Practices	25
2.1.3. Whistleblowing	25
2.1.4. Business Partner Management	25
2.2. AUDITING AND ASSURANCE	83
2.2.1. Internal Control and Monitoring Structures	75
2.2.2. External Audit	75
2.2.3. Independent Assurance	100
2.3. TRANSPARENCY AND DISCLOSURE	25
2.3.1. Disclosure of Anti-Corruption Programs	25
2.3.2. Disclosure on Organizational Structures	25
2.3.3. Disclosure on Country-by-Country Operations	25
2.3.4. Additional Disclosure	25
2.4. STAKEHOLDER ENGAGEMENT	25
2.4.1 Stakeholder Relations	25
2.4.2 Business Driven Anti-Corruption Activities	25
2.4.3 Business Associations	25
2.5. BOARD OF DIRECTORS	41
2.5.1. Oversight	50
2.5.2. Executive Remuneration	25
2.5.3. Conflicts of Interest	50

3. Civil Society and Media

Cooperation between civil society and business in the area of corruption prevention is weak. No significant initiative has been implemented in this regard in recent years.

The anti-corruption work of civil society organisations partially concerns the private sector as well. For example, research and monitoring conducted by non-governmental organisations cover the areas of political donations and public procurement where private companies are subjects of monitoring, too (along with public institutions).

Georgia has a diverse media sector. Media independence is guaranteed by the law which prohibits undue interference in their activities.

However, in practice, media independence is infringed upon often. The ruling party has gained influence on some TV companies through changes in their staff, including the Public Broadcaster and Adjara TV. At the same time, the justice system has been used to put pressure on Mtavari Arkhi and TV Pirveli TV companies which are critical of the government. Journalists have been injured during the dispersal of protest rallies by the police.

Frequent violation of the norms of ethics by journalists and polarisation of the media, especially during the election [periods], are problematic. It should be noted as a positive development that many media outlets actively investigate cases that involve possible corruption.

Scores for thematic areas and indicators for civil society and media:

3.1. CIVIL SOCIETY AND MEDIA	50
3.1.1. Independent Media	50
3.1.2. Civil Society Engagement in Business Integrity	25
3.1.3. Civil Society Monitoring of Business Integrity	75

IV. Conclusion and Recommendations

The main findings described in the previous chapters demonstrate that, despite a number of shortcomings, Georgia mostly has a sound legal framework to prevent corruption, including corruption in the business sector. At the same time, the institutional flaws of the country's anti-corruption system – first and foremost, undue political and informal influence on the justice system – significantly hamper effective enforcement of the law, which has a negative impact on both the public sector and business activities.

The material gathered in the process of conducting this research indicates that internal anti-corruption mechanisms of the business sector are weak. The likely reason is that companies (including the country's largest companies) and business associations do not pay sufficient attention to the issue of corruption prevention. The general inactivity of business in the process of developing and implementing the country's anti-corruption policy is also indicative of this problem.

Civil society and media play an important role in preventing and uncovering corruption – in both the public and private sectors. The Georgian media and non-governmental organisations are actively working on corruption issues. However, the work of the media is hampered by the government infringing upon its independence. The cooperation between civil society and business in the area of combating corruption is weak.

The recommendations provided below serve addressing precisely these problems for each sector discussed.

Public Sector

- An independent multifunctional anti-corruption agency must be created with the aim of efficient enforcement of the country's anti-corruption legislation.
- Independence of institutions responsible for investigating corruption must be guaranteed as well as their protection from any kind of undue or informal influence.
- Real and effective steps must be taken to ensure independence of the judiciary.
- Legislation must establish proportional penalties for giving or accepting a bribe according to the seriousness of the offence.

- Mitigation or relieving of criminal liability for corruption-related crimes for the legal entities which have appropriate internal anti-corruption mechanisms and take all reasonable measures to prevent corruption among their employees must be stipulated by the law.
- Effective provisions concerning the work of so-called Designated Non-Financial Businesses and Professionals must be added to the legislation regulating combating money laundering.
- Independence of the Competition Agency must be guaranteed as well as its protection from undue influence. The Agency must be equipped with the resources necessary for it to properly perform its work.
- Effective enforcement of whistleblower protection legislation in practice must be ensured; also, the legal basis for the protection of whistleblowers must be created within law enforcement bodies.
- Legislation must be passed to ensure that the information about beneficial owners of companies is available to the public.
- Proper enforcement of the legislation regulating political donations must be ensured.
- Proper enforcement of the legislation regulating lobbying activities must be ensured.
- Proper attention must be paid to uncovering possible cases of the conflict of interests in the process of monitoring asset declarations submitted by public officials.
- Legal provisions regulating the so-called “revolving doors” must be improved and their proper enforcement in practice must be ensured.
- The share of non-competitive procurement contracts in public procurement must be reduced.
- Effective response to possible cases of corruption in public procurement must be ensured.
- Participation in public procurement must be prohibited for persons and companies convicted of corruption-related violations as well as for companies which do not disclose information about their ultimate beneficial owner.
- Transparency of tax amnesties and large-scale tax agreements must be ensured.

Private Sector

- Companies must ensure the creation of proper internal anti-corruption mechanisms and programmes.
- Companies (especially large companies) must ensure that their activities and internal governance are transparent and, to this end, disclose the following:
 - information about internal anti-corruption mechanisms;
 - annual audit reports;
 - information about internal governance structure;
 - information about political donations they make as well as the lobbying activities and amounts spent on sponsorship;
 - remuneration of board members and senior management;
 - possible conflict of interests of board members (for example, other offices they hold, financial investments and employment of their relatives).
- Companies must ensure effective operation of their boards of directors on the one hand and proper accountability to all internal stakeholders on the other (including shareholders, stock owners, employees).
- Business sector must become more actively involved in the country's anti-corruption policy development and implementation.
- Business associations must implement anti-corruption programmes involving their members in the process.

Civil Society and Media

- Civil society must cooperate more actively with business on the issues of corruption prevention and combating corruption.
- The government must refrain from any attempts to infringe upon media independence.
- Media outlets must ensure effective self-regulation with the aim of guaranteeing ethical and impartial journalistic activities.