



**IACC HIGH-LEVEL SEGMENT
MONITORING MECHANISM
GEORGIA
2018-2021**

Transparency International Georgia

Transparency International Georgia (TI Georgia), a national chapter of Transparency International, is a local non-governmental organisation committed to combating corruption through the promotion of transparency and accountability for more than 20 years.

The organisation's mission is to serve as the primary source of information on corruption reform in Georgia, to assist the Georgian government and the broader public in facilitating reform in sectors where corruption exists, to build and strengthen institutions and to promote good governance.

TI Georgia has become Georgia's leading advocacy based think tank, continuously generating up-to-date and in-depth information and expert knowledge in multiple fields, including anti-corruption policy, judicial reform, parliamentary democracy, local government, elections, political and campaign finance, and media.

TI Georgia seeks to make Georgia a country free of corruption in all areas of society, where people are a part of the policymaking process, and where transparency and openness in government and the commercial sector are routine rather than rarities, supporting an engaged citizenry and a vibrant and fair democratic environment.

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EXECUTIVE SUMMARY

SUMMARY OF FINDINGS

Total number of commitments made at the 18 th IACC	10
Total number of commitments selected for monitoring	6

Current level of progress in commitment implementation	
Number of fulfilled commitments	1
Number of partially fulfilled commitments	4
Number of commitments not fulfilled/dropped	1

KEY CHALLENGES TO COMMITMENT IMPLEMENTATION

The key challenge in commitment implementation identified by this assessment is the lack of will and resoluteness of the government leadership to move its anti-corruption commitments forward. The lack of political will stems from the uncontrolled domination of the ruling party Georgian Dream – Democratic Georgia over almost all state institutions in Georgia. While the country has experienced such concentration of power before, the current situation is aggravated by the informal influence retained by the founder of the currently ruling party, Bidzina Ivanishvili, even after formally leaving politics. This influence is significant enough to qualify as state capture.¹

Over the past years, the ruling party has solidified its grasp on the judiciary and law enforcement bodies, which are headed by individuals with personal loyalties towards Ivanishvili. This has given free rein to high-level corruption, which currently enjoys near full impunity, and has effectively resulted in the loss of political will to resist corruption and carry out any anti-corruption reforms.²

It should also be stated that the commitments taken by Georgia as part of IACC 2018 lacked ambition and did not target the main corruption related issues in the country: high-level corruption, clear signs of state capture and politicisation of investigative bodies and the judiciary. Even from the commitments that were taken, only one was evaluated as fully fulfilled by this assessment.

Some notable commitments taken by Georgia at IACC 2018 were linked to the adoption of a standalone freedom of information (FoI) law with an independent monitoring and enforcement mechanism; the carrying out of comprehensive corruption risk assessments across the entire public sector; and provision of up-to-date, real-time data on public procurement tenders to be published in

¹ Transparency International Georgia, Is Georgia a Captured State? 11 December 2020, <https://transparency.ge/en/blog/georgia-captured-state>

² Transparency International Georgia, Is Georgia a Captured State? 11 December 2020, <https://transparency.ge/en/blog/georgia-captured-state>

open data formats and with an application programming interface (API) in accordance with the principles of the Open Contracting Data Standard (OCDS). The fact that the new National Anti-Corruption Strategy and Action Plan 2021-2022 as well as the new National OGP Action Plan for 2020-2021 have not been developed and the anti-corruption and OGP councils have not been convened during this period is a good demonstration of stagnation in the field.³ This leaves interested stakeholders in limbo as to what progress has been made in the implementation of the aforementioned commitments and what are the new anti-corruption priorities of the government.⁴

In interviews with TI Georgia for this report the Administration of Government (AoG) cited structural factors as the main reason behind this stagnation. However, those factors occurred two years after the 2018 IACC Conference. Specifically, in 2020-2021, the anti-corruption and OGP policy coordination function has moved from the Ministry of Justice (MoJ) to the AoG, which required the mobilisation of new staff and resources for convening the new multi-stakeholder councils and conducting mandatory public consultations for the strategy/action plan development. This was soon followed by the first wave of the Covid-19 pandemic, which shifted the government's priorities to manage the crisis brought by the outbreak of the virus, and the process has dragged on longer than expected.⁵ The lack of resources was also cited as the main reason by the State Procurement Agency for the slow progress in the implementation of the OCDS commitment.⁶

It should be noted that the OGP coordination function moved from the MoJ to the AoG after the OGP Civil Society Forum members requested the activation of the OGP Rapid Response Mechanism (RRM). In their letter, the CSOs protested the fact that the MoJ had refused to include ambitious commitments proposed by them – such as the establishment of a high-level, independent anti-corruption institution to respond to the elite corruption challenge in the country – in the 2018-2019 OGP National Action Plan. In fact, the action plan was adopted without the endorsement of CSOs.⁷ Furthermore, at the 2018 IACC, the then minister of justice accused TI Georgia of being politically biased towards the former ruling party, the United National Movement, after the organisation's representative raised the lack of co-creation in the OGP process and the lack of ambitious OGP commitments as well as the signs of high-level corruption and state capture as main challenges in Georgia.⁸ Apart from the transfer of OGP functions, the RRM also resulted in the creation of the new OGP Council, where CSO members have a right to vote.⁹ Yet, as mentioned above, this new mechanism has not been used in practice while the OGP process has stopped and Georgia skipped an entire action plan cycle of 2020-2021. The process for adopting the 2022-2023 OGP National Action Plan resumed with an OGP forum meeting held in January 2022;¹⁰ however the new OGP Council has not yet met.

The Secretariat of the National Anti-Corruption Council was transferred from the MoJ to the AoG in March 2021 without any prior consultation with stakeholders. The AoG has not convened the council meeting since then, while the Council Secretariat remains unstaffed.¹¹

³ IDFI, The Government of Georgia Hinders the Adoption of OECD Report on Anti-Corruption Environment, 19 November 2021, https://idfi.ge/en/the_government_of_georgia_hinders_the_adoption_of_oecd_report_on_anti-corruption_environment

⁴ IDFI, NGO Statement: Suspended Process of Open Government Partnership (OGP) in Georgia, 7 December 2021, https://idfi.ge/en/ngos_joint_statement_937352

⁵ Interview with the Head of the Public Administration Unit of the Administration of the Government, 13 October 2021.

⁶ Interview with director of IT Department of State Procurement Agency, 27 October 2021.

⁷ Request for the Activation of the Rapid Response Mechanism from the Civil Society Members of the Open Government Georgia's Forum, 1 November 2018, https://www.opengovpartnership.org/wp-content/uploads/2019/01/Georgia_Letter_CS-Request-for-RRM_20181101.pdf

⁸ TI Georgia, 23 October 2018, <https://www.facebook.com/TransparencyInternationalGeorgia/videos/191375408422176/>

⁹ OGP Georgia, A High-Level Advisory Body of the Government on Open Government Issues Was Established, 10 February 2020, <https://ogpgeorgia.gov.ge/en/news/ogp-management/>

¹⁰ OGP Georgia, The Administration of the Government of Georgia Hosted the Open Government Forum in Georgia, 21 January 2022, <https://www.ogp.gov.ge/news/bd36b60c-6465-4dd7-a705-38337efd5e2c/>

¹¹ TI Georgia, Georgian Government's Stalled Anti-Corruption Policy, 12 January 2021, pp.15-16, <https://www.transparency.ge/en/post/georgian-governments-stalled-anti-corruption-policy>

KEY OPPORTUNITIES TO ACCELERATE COMMITMENT IMPLEMENTATION

The key opportunity to accelerate the implementation of anti-corruption commitments in Georgia is the post-election period following the 2020 parliamentary and the 2021 municipal elections that dominated the political agenda in the country for the past two years. During this period, a major debate in the country was centred on the reforms to free the election administration and the judiciary from undue political influences and to increase public trust towards the election process¹² and the court system,¹³ something that remains a stumbling block between the ruling party and the opposition parties, with latter accusing the former of harassing opposition candidates, stealing votes and of politicising the judiciary.¹⁴

In fact, Georgia has been living in a state of political crisis and democratic backsliding since June 2019 when protests erupted in anger at the presence of the Russian member of parliament, Sergei Gavrilov, in the Georgian parliament's speaker's seat. This was followed by another wave of street protests following the failure of the ruling party to adopt constitutional amendments to introduce a fully proportional electoral system. The crisis and accompanying street protests took a new turn when opposition parties refused to recognise the results of the 2020 parliamentary elections since they believed the elections were rigged.¹⁵

The post-election period creates an opportunity for the Georgian government to act on the criticism about democratic backsliding and de-prioritisation of anti-corruption reforms by restarting these reforms. It also creates an opportunity for international entities and platforms, such as the European Union (EU), the Organisation for Economic Co-operation and Development (OECD), the United States Agency for International Development (USAID) and the Open Government Partnership (OGP) to raise the profile of good governance and democracy reforms and to influence the government to move these reforms forward. There is a vast volume of expertise and experience within those entities and within local CSOs, which are committed to providing their assistance to the government. The launching of an inclusive multi-stakeholder process by the Administration of Government for the adoption of the new National Anti-Corruption Strategy and Action Plan as well as of the new National OGP Action Plan would help meet this opportunity and accelerate the implementation of relevant commitments.

Another good opportunity lies at the local level where some municipalities are more willing to implement anti-corruption and OGP commitments through external assistance. The OGP Local Program, which aims to build partnerships between local governments and civil society for more open, inclusive, participatory and accountable policymaking, has contributed to this and raised the incentives of local authorities to showcase their success stories to national and global audiences.¹⁶ This drive for success has brought tangible rewards for Akhaltsikhe, Khoni and Ozurgeti municipalities, which were all admitted to the OGP Local Program in 2020 and are currently busy

¹² Georgian Institute of Politics, Changes in the Election Administration and its Potential Impact on the Upcoming Local Self-Government Elections in Georgia, 27 July 2021, <https://gip.ge/changes-in-the-election-administration-and-its-potential-impact-on-the-upcoming-local-self-government-elections-in-georgia/>

¹³ Heinrich Boell Foundation, Waves of Judicial Reform That Cannot Reach the Shore, 6 September 2021, <https://ge.boell.org/en/2021/09/06/waves-judicial-reform-cannot-reach-shore>.

¹⁴ Carnegie Europe, Georgian Democracy Is Dying By a Thousand Cuts, 9 September 2021, <https://carnegieeurope.eu/strategieurope/85300>

¹⁵ Carnegie Europe, Defusing Georgia's Political Crisis: An EU Foreign Policy Success? 10 May 2021, <https://carnegieeurope.eu/2021/05/10/defusing-georgia-s-political-crisis-eu-foreign-policy-success-pub-84494>.

¹⁶ OGP Independent Reporting Mechanism (IRM): Georgia Transitional Results Report 2018–2019, August 3, 2021, p. 7, https://www.opengovpartnership.org/wp-content/uploads/2021/08/Georgia_Transitional-Results_Report_2018-2019_EN.pdf

implementing separate action plans, including commitments on carrying out comprehensive corruption risk assessments and developing integrity and open data strategies and action plans.¹⁷

Finally, using private sector resources in the context of public-private partnerships and corporate social responsibility would help increase the integrity of the government and of the businesses themselves. Through a partnership with the government on the implementation of anti-corruption commitments, such as the sustainability of open data portals in sectorial public agencies, for instance, businesses would improve their public image and trust and increase their income by developing innovative applications and services for their customers based on the government data.

KEY RECOMMENDATIONS

The key recommendations to strengthen Georgia's anti-corruption commitments taken at the 18th IACC and to accelerate their implementation are the following:

1. The government of Georgia should expedite the development of its 2022-2023 National Anti-Corruption Strategy and Action Plan as well as a new OGP Action Plan for the same period. The inclusive multi-stakeholder meetings and public consultations accompanying the development of the aforementioned documents should also be renewed.
2. The government should restart important anti-corruption reform platforms, such as the OGP Interagency Coordination Council and the National Anti-Corruption Council, and use these platforms to their full potential.
3. The government should expedite the adoption of the existing draft FoI law prepared in 2014 through active consultations with civil society.
4. All key government agencies, especially those directly tasked with the fight against corruption (for example, Chief Prosecutor's Office, State Security Service, Ministry of Internal Affairs, Ministry of Defence) should carry out corruption risk assessments and develop and implement integrity strategies/action plans as a commitment in the national anti-corruption and OGP action plans.
5. The State Procurement Agency should grant full access to all public procurement data in an open data format. The agency should also proactively and continuously reach out to the Open Contracting Partnership, other international donors and local CSOs to continue the implementation of the Open Contracting Data Standard principles.
6. The government should make use of the vast expertise and resources offered proactively by international donor agencies and local CSOs and consider their recommendations in the implementation of its anti-corruption commitments. The government should further develop commitments that are specific, measurable, timebound and ambitious. Civil society consultations will support the government to determine how to fulfil these criteria. It is equally important to develop a wide-ranging public awareness campaign about the values and benefits of each commitment.
7. The government should strive for ambitious reforms to address the key corruption challenges related to high-level corruption and politicisation of the prosecution and the judiciary in the country.
8. The government's new anti-corruption commitments should focus on countering high-level corruption by establishing an independent anti-corruption agency with robust oversight and enforcement mechanisms and by explicitly addressing this problem in key anti-corruption documents.

¹⁷ OGP Georgia, Akhaltsikhe, Ozurgeti and Khoni Joined Global Partnership on Open Government, 20 October 2020, <https://ogpgeorgia.gov.ge/en/news/ogp-local-is-growing/>

INTRODUCTION

The 18th IACC in Copenhagen featured a series of high-level meetings among countries in the Organisation for Economic Co-operation and Development (OECD) and non-OECD countries as well as international and regional organisations. As part of these meetings, participants made a set of statements on the steps that each intends to take to make progress in the field of anti-corruption, based on existing commitments, such as Open Government Partnership (OGP) action plans, UK summit, United Nations Convention against Corruption (UNCAC), OECD instruments, Sustainable Development Goals (SDGs), etc.¹⁸ Participants at the high-level meetings agreed to establish a follow-up mechanism engaging all stakeholders (including governments, international and regional organisations, companies and civil society) in monitoring the implementation of these commitments.

The aims of the follow-up mechanisms are to:

- assess the level of progress towards the implementation of the commitments
- provide further analysis on, and complement, other reporting mechanisms
- focus on the qualitative nature of the commitments rather than quantitative scoring or ranking
- provide insights into what has and has not worked and why
- provide insights into the opportunities and challenges for implementation as a basis for understanding where technical support should be targeted

The follow-up mechanism aims to capture the context and conditions under which the commitments are being implemented as well as recording progress in the implementation of the commitments. It provides further analysis on, and complements, other reporting mechanisms, rather than duplicate them.

This report presents the results of the first round of monitoring for Georgia.

The report contains the following sections:

1. Filtering of commitments: presents the results of selecting Georgia's commitments based on an assessment of their level of specificity and measurability, and hence the feasibility of monitoring each one of them.
2. Analysis of Georgia's context: presents a brief analysis of the extent to which the commitments overall are considered pertinent to the country context.
3. Progress in implementing the commitments: presents the level of progress of the commitments selected for monitoring as well as the challenges and opportunities for implementation.
4. Recommendations: presents the key recommendations to accelerate the implementation of the commitments.

¹⁸ 18th IACC High Level Segment Commitments, <https://iaccseries.org/18th-iacc/18th-iacc-high-level-segment-commitments/>

FILTERING OF COMMITMENTS

In total, Georgia presented 10 commitments at the 18th IACC in 2018. Of these, six commitments are deemed feasible to monitor based on their level of specificity and measurability as well as on their importance to the fight against corruption in the Georgian context, as presented below.

COMMITMENT 1: Georgia is committed to further increase access to public information.

IS THE COMMITMENT SPECIFIC? YES

Based on the text in the national statement, this commitment is a general statement of intent to increase access to public information and it is therefore not considered to be specific. However, an interview with the relevant representative of the Administration of Government provided further clarity on the commitment wording and related activities. Specifically, this commitment implies the adoption of a new, standalone freedom of information (Fol) law in Georgia, which is a long-standing commitment included in the 2014-2015 and in the 2016-2017 National OGP Action Plans,¹⁹ in the 2015 National Anti-Corruption Strategy²⁰ and in the 2019-2020 Public Administration Reform Action Plan.²¹ In those action plans, the government committed to developing the draft law in consultations with civil society organisations and submitting it to parliament. The Fol draft was developed in October 2014 through active consultations with civil society.²² This is one of the vital commitments stemming from the Association Agreement between the EU and Georgia²³ and included in the 2014, 2015 and 2016 National Action Plans for its implementation.²⁴ With this additional information in mind, the commitment can be considered specific enough since a commitment to an Fol law moves the country towards achieving recognised international standards in this area of work.

IS THE COMMITMENT MEASURABLE? YES

The commitment text does not identify any measurable actions to indicate whether it will have been achieved. However, based on the feedback received from stakeholders and on the aforementioned commitments made in other action plans, approving the existing draft Fol law by the government and submitting it to parliament for adoption can be identified as a measurable action from these various action plans to measure the progress made in implementation.

¹⁹ Georgia's National OGP Action Plan of 2014-2015, pp.19-20, <https://www.opengovpartnership.org/wp-content/uploads/2019/06/OGP-AP-GEORGIA.pdf>; Georgia's National OGP Action Plan of 2016-2017, pp. 18-19, https://www.opengovpartnership.org/wp-content/uploads/2017/04/Georgia_NAP_2016-2018_ENG.docx

²⁰ Georgia's National Anti-Corruption Strategy of 2015, pp.20-23,

²¹ Georgia's Public Administration Reform Action Plan of 2019-2020, pp. 14-15,

http://www.gov.ge/files/425_78221_358698_PAR-Action-Plan-2019-2020_Explanatory-Part.pdf

²² OGP Independent Reporting Mechanism (IRM): Georgia Progress Report 2016-2017, pp. 50-52,

https://www.opengovpartnership.org/wp-content/uploads/2019/01/Georgia_MidTerm_Report_2016-2018_EN.pdf

²³ EU-Georgia Association Agreement, August 30, 2014, Article 17.1.e [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830\(02\)](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02))

²⁴ Ministry of Foreign Affairs of Georgia, [National Action Plans for the implementation of the Association Agreement and Association Agenda](#)

IS THE COMMITMENT
SELECTED FOR MONITORING YES

COMMITMENT 2: For better identification of the corruption risk factors, Georgia is willing to implement corruption risk assessments and carry out comprehensive analyses of the possible corruption risks, especially in corruption prone sectors.

IS THE COMMITMENT SPECIFIC? YES

This commitment is specific because it targets a concrete anti-corruption mechanism, which is corruption risk assessments.

IS THE COMMITMENT
MEASURABLE? YES

The commitment identifies action that can be construed as measurable, but which requires some interpretation. The commitment was included in the 2018-2019 National OGP Action Plan under Challenge II Commitment 6 “Strengthening the existing major anti-corruption institutions”, in which the government committed to developing a corruption risk assessment methodology and piloting it in the chief prosecutor’s office and in the state security service, both considered to be key structures responsible for the fight against corruption. According to the aforementioned OGP Action Plan, key steps in measuring progress in the implementation of this commitment are:

- 2.1 a) “elaboration by the Secretariat of the Anti-Corruption Council (ACC) in cooperation with the Anti-Corruption Council and OGP Forum members of a corruption risk assessment methodology;
- 2.1 b) according to the corruption risk assessment methodology, assessment of corruption risks in anticorruption divisions (informing the corruption risk assessment progress to the forum and consideration at the forum);
- 2.1 c) according to the corruption risk assessment results and needs, strengthening of the anti-corruption agency under the state security service of Georgia the division of the criminal prosecution of corruption crimes of the chief prosecutor’s office;
- 2.1 d) periodical trainings of persons engaged in the investigation of corruption crimes and criminal prosecution in the direction of specialization, including the matters of corruption crimes committed by legal persons and international corruption crimes investigation and criminal prosecution.”²⁵

The action plan also includes Commitment 1 “Strengthening transparency and good governance in municipalities” to develop integrity strategies and action plans in Akhaltsikhe, Khoni, Ozurgeti and Dedoplistskaro municipalities.

- 2.2 a) the development and approval of a three-year (2019–2022) transparency and integrity strategy;
- 2.2 b) and a biennial action plan by eight municipalities as envisaged by the 2018–2019 OGP Action Plan.²⁶

IS THE COMMITMENT
SELECTED FOR MONITORING YES

²⁵ Georgia’s National OGP Action Plan of 2018-2019, pp.14-16, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

²⁶ Georgia’s National OGP Action Plan of 2018-2019, 26-27 https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

COMMITMENT 3: Georgia is willing to establish the SDG Tracker that will enable effective and transparent monitoring of the implementation of the UN SDGs.

IS THE COMMITMENT SPECIFIC? YES

This commitment targets a concrete and sufficiently narrow policy area and anti-corruption mechanism, which aims to ensure effective and transparent monitoring of the implementation of the 17 Sustainable Development Goals (SDG) designed by the United Nations (UN) General Assembly in 2015.

IS THE COMMITMENT MEASURABLE? YES

The commitment identifies a clear, measurable action and a deliverable by specifying the establishment of the SDG Tracker to ensure effective and transparent monitoring of the implementation of the UN SDGs. Specifically, in the National OGP Action Plan of 2018-2019 Action Plan under Commitment 7: “SDG Tracker”, the Administration of Government committed to the following:

- 3a) “activation of the internal electronic system (the internal operations system will be accessible only for governmental agencies) [of the tracker];
- 3b) activation/functional setup of the SDG web-page, including SDG Tracker and other components, where the internal system data are generated;
- 3c) promoting the SDG Tracker as the governmental policy monitoring and assessment possibility;
- 3d) and activation of the information part of SDG Tracker web-page – placement of a schedule/information related to all the projects, ongoing or planned activities at a national scale.”²⁷

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 4: Georgia will continue working towards increasing transparency and accountability of the state-owned enterprises by publishing the necessary information.

IS THE COMMITMENT SPECIFIC? YES

Based on the text in the national statement, this commitment is a general statement of intent to increase the transparency and accountability of the state-owned enterprises (SOEs). However, further research shows that this is linked to the 2019-2020 National Anti-Corruption Strategy²⁸ as well as in the 2018-2019 National OGP Action Plan Commitment 15 “Openness and accountability of state-owned enterprises”. The mechanism the government plans to use to increase public access to information about the SOEs is the development of a unified data collection template and a corporate governance guide based on the best international practice.²⁹ Therefore, this commitment can be considered specific.

²⁷ Georgia’s National OGP Action Plan of 2018-2019, pp.16-17, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

²⁸ Georgia’s National Anti-Corruption Strategy of 2019-2020, pp. 32-35

²⁹ Georgia’s National OGP Action Plan of 2018-2019, pp. 25-26, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc.

IS THE COMMITMENT MEASURABLE? YES

The commitment text mentions the general action of “publishing the necessary information” but does not indicate what specific steps need to be taken to carry it out nor what necessary information means. It can be construed by the feedback received from relevant stakeholders and from the OGP action plans that progress in implementation can be measured by:

- 4a) whether the state agencies regularly publish information about the operation, governance, and finances of the SOEs. The 2018–2019 OGP Action Plan indicates that necessary information that should be published on the website of the National Agency of State Property (nasp.gov.ge) should include the name of enterprise, contact data, information about its establishment, governance, capital, activity, state share in its capital as well as financial standing and outcomes of the enterprise;
- 4b) the adoption and publication of the data collection template;
- 4c) and the drafting of the corporate governance guide for the SOEs.

IS THE COMMITMENT SELECTED FOR MONITORING YES

COMMITMENT 5: Georgia will continue working towards effective implementation of the principles of the Open Contracting Data Standard.

IS THE COMMITMENT SPECIFIC? YES

Based on the text in the national statement, this commitment is a general statement of intent to effectively implement the principles of the Open Contracting Data Standard (OCDS). It does not specify what principles are meant here nor in which area these principles are implemented. However, interviews clarified that this commitment is linked to Commitment 13 “Electronic innovations for more transparency and efficiency of public procurement” in the 2018–2019 OGP Action Plan. Therefore, this commitment can be considered specific by identifying a clear anti-corruption mechanism which is publication of open data around public procurement.

IS THE COMMITMENT MEASURABLE? YES

The commitment text does not identify any measurable actions to indicate whether it will have been achieved. However, in the 2019–2020 National Anti-Corruption Strategy³⁰ and in the 2018–2019 National OGP Action Plan Commitment 13 “Electronic innovations for more transparency and efficiency of public procurement”,³¹ the government committed to the following:

- 5a) “transfer of the current year information available in the module of public procurement electronic annual plans built in the e-procurement system and disclosure on the web-page – opendata.spa.ge;
- 5b) creation of a web-page of new visualization on the database generated by OCDS (the new web-page will assist users in retrieving desired information in any correlation);
- 5c) creation of an API for accessing OCDS-based database;
- 5d) ensuring rather detailed (minimum of the second level) instructions of the CPV codes in electronic tenders of the E-Procurement system;
- 5e) OCDS-based database update; complete coverage of historical data created since 2011 and systemic update of current data.”

³⁰ [Georgia’s National Anti-Corruption Strategy of 2019-2020](#), pp. 23-28

³¹ Georgia’s National OGP Action Plan of 2018-2019, pp. 23-24, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

IS THE COMMITMENT
SELECTED FOR MONITORING YES

COMMITMENT 6: Georgia is committed to continue introduction of innovative solutions in the property management system through piloting a blockchain solution to validate property transactions that is meant to protect landowners from corruption risks.

IS THE COMMITMENT SPECIFIC? YES

This commitment targets a concrete and sufficiently narrow policy area and a mechanism within the property management system to validate property transactions and protect landowners from corruption risks through the blockchain technology.

IS THE COMMITMENT
MEASURABLE? YES

The commitment identifies a clear, measurable action and a deliverable by specifying the piloting of the blockchain technology within the property management system as a solution to prevent corruption.

IS THE COMMITMENT
SELECTED FOR MONITORING YES

COMMITMENT 7: Georgia will take steps to ensure that civil society is effectively engaged in the supervision of expenditure of public finances.

IS THE COMMITMENT SPECIFIC? NO

This commitment is a general statement of intent to effectively engage civil society in the supervision of the expenditure of public finances and does not identify a concrete policy instrument to do so.

IS THE COMMITMENT
MEASURABLE? NO

The commitment does not identify any measurable actions to indicate whether it will have been achieved. It does not specify what steps need to be taken to achieve the stated goal and what mechanism is envisioned to effectively engage CSOs in the supervision of public finances.

IS THE COMMITMENT
SELECTED FOR MONITORING NO

COMMITMENT 8: Georgia will continue working with others countries, civil society, international organisations to support implementation of the voluntary provisions of the United Nations Convention against Corruption (UNCAC).

IS THE COMMITMENT SPECIFIC? NO

This commitment is a general statement to work with other countries, civil society, international organisations with the intent to support the implementation of the voluntary provisions in the UNCAC. UNCAC's voluntary provisions touch upon various policy areas. It is unclear what mechanism would be used to work with the other actors mentioned to achieve implementation.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions to indicate whether it will have been achieved. It does not specify what actions the country will take to work with the mentioned actors on the various voluntary provisions.

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 9: Georgia is planning to further improve public service delivery to remove any obstacles for the persons with disabilities.

IS THE COMMITMENT SPECIFIC? NO

This commitment is a general statement of intent to improve public service delivery for people with special needs. It does also not clearly specify the anti-corruption link.

IS THE COMMITMENT MEASURABLE? NO

The commitment does not identify any measurable actions to indicate whether it will have been achieved. It does not specify which public services related to anti-corruption will be improved, what are the obstacles in their delivery, and how the government plans to remove those obstacles.

IS THE COMMITMENT SELECTED FOR MONITORING NO

COMMITMENT 10: Georgia is willing to work together with partner countries to and continue close cooperation with international organisations for sharing best practices on established tools for prevention and combating corruption.

IS THE COMMITMENT SPECIFIC? NO

This commitment is a general statement of intent to work with partners to share best practices and tools in the fight against corruption. It does not identify a concrete policy area in which preventing and combating corruption is a priority or a mechanism that would be used for that purpose. Nor does it specify the mechanisms for partnering with other countries and international organisations.

**IS THE COMMITMENT
MEASURABLE?**

NO

The commitment does not identify any measurable actions to indicate whether it will have been achieved. It is unclear how they want to share best practices nor which tools or mechanisms they want to establish for prevention and combating corruption.

**IS THE COMMITMENT
SELECTED FOR MONITORING**

NO

COUNTRY CONTEXT

According to the latest findings of the 2020 Corruption Perceptions Index (CPI), Georgia scores 56 out of 100 in the country ranking, where 0 means that a country is perceived as highly corrupt and 100 means that a country is perceived as having the lowest level of corruption. The CPI outlined the most problematic areas with regard to high-level corruption in Georgia, namely:

- excessive concentration of power in the hands of a single political group and its undue influence over all key public institutions as well as over the media and the private sector
- weakness of the legislature and the judiciary in the exercise of their executive oversight function
- government pressure on the critical media and the government sponsored disinformation campaigns against the most vocal, independent and advocacy based civil society organisations
- increased political polarisation and the side-lining of the opposition from decision-making processes
- ineffective monitoring of political party financing
- lack of independence of the judiciary and prevalence of corruption risks in the system
- political interference in the work of the law enforcement bodies and their lack of public accountability
- the non-existence of an independent anti-corruption body in charge of investigating the cases of high-level corruption³²

Georgia has made significant progress in reducing petty corruption, but the problems concerning high-level corruption remain unresolved. For instance, Georgia has a bribery rate of just 7 per cent, which is on a par with EU member states, according to a survey conducted by Transparency International for the Global Corruption Barometer.³³ However, 47 per cent of Georgians believe that cases of high-level corruption are not investigated properly in the country,³⁴ something that is also outlined as a challenge by the European Parliament³⁵ and the Organisation for Economic Co-operation and Development (OECD).³⁶

There are also gaps in the legislative framework on freedom of information (FoI) and its practical implementation. Georgia scores 97 out of 150 points for its FoI legislation, which is part of the General Administrative Code. The country has received the highest score for the scope of this legislation (30 out of 30) and the right of access to information granted by it (4 out of 6). However, it has an average score for information requesting procedures (15 out of 30) and promotional measures (9 out of 16), and has received the lowest score on sanctions and

³² Transparency International Georgia, Corruption Perceptions Index 2020: Main Problems of Georgia's Anti-Corruption Policy Remain Unresolved, January 2021, <https://transparency.ge/en/post/corruption-perceptions-index-2020-main-problems-georgias-anti-corruption-policy-remain>

³³ Transparency International Global Corruption Barometer, People and Corruption: Europe and Central Asia, November 2016, https://images.transparencycdn.org/images/2016_GCB_ECA_EN.pdf

³⁴ Transparency International Georgia, Corruption in Georgia: Results of Public Opinion Survey, June 2020, <https://www.transparency.ge/en/post/corruption-georgia-results-public-opinion-survey>

³⁵ European Parliament, Report on the Implementation of the EU Association Agreement with Georgia (2017/2282 (INI)), 2018, p. 9, https://www.europarl.europa.eu/doceo/document/A-8-2018-0320_EN.pdf?redirect

³⁶ Organisation for Economic Co-operation and Development, Anti-Corruption Reforms in Georgia: 4th Round of Monitoring of the Istanbul Anti-Corruption Action Plan, 2016, pp.116-117, <https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>

protections against violations (1 out of 8), which are not envisaged in the existing legislation.³⁷ The government's long-standing commitment to adopt a standalone FoI law with its enforcement mechanism remains unfulfilled, something that has been the subject to criticism by civil society organisations and media watchdogs.³⁸

Freedom House rates Georgia on the level of democratic governance as transitional or hybrid regime (3.18 out of 7 points). The country scores the lowest on the independence, effectiveness and accountability of the legislative and executive branches (2.50 out of 7) and the highest on the legal and political environment in which the civil society operates (4.25 out of 7).³⁹ At the same time, Georgia is rated as partly free (36 out of 100 points) on people's access to political rights and civil liberties.⁴⁰

Public participation in policymaking remains low, especially in state budget making. According to the results of the latest 2019 Open Budget Survey, Georgia scores high on budget transparency and public access to information on government revenues and expenditures (81 out of 100) as well as on budget oversight by the legislature and the supreme audit institution (82 out of 100) but scores low on public participation in the budget process (28 out of 100).⁴¹

It is noteworthy that Georgia has not developed a new national anti-corruption strategy and action plan for 2021–2022 or a new National OGP Action Plan for 2020–2021. The anti-corruption and OGP councils have not convened in this period either. At the same time, the implementation process of the latest 2019–2020 national anti-corruption strategy and its action plan has concluded and most of the commitments from those documents remain unfulfilled. These include important commitments on improving accountability of the National Anti-Corruption Council and the transparency of the anti-corruption policy development process; refining public officials' asset declaration monitoring system; improving the FoI legislation and its implementation; and strengthening the independence and integrity of judges.⁴²

Concerned about the current state of corruption in Georgia, CSOs working in the field conclude that anti-corruption reforms in the country have stagnated over the past few years since they have become less of a priority for the government.⁴³ As the relevant government agencies do not respond to alleged cases of corruption that involve high-ranking public officials in the central government or persons with close ties to the ruling party,⁴⁴ CSOs reckon that Georgia is exhibiting clear signs of state capture defined as "a situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation's policies, legal environment and economy to benefit their own private interests".⁴⁵

To address this challenge, the CSOs believe that first and foremost it is necessary to establish an independent anti-corruption agency for effectively combating high-level corruption in Georgia. More generally, anti-corruption reform should be given a high priority and include

³⁷ Right to Information Rating, Country Data, Georgia, <https://www.rti-rating.org/country-detail/?country=Georgia>

³⁸ OGP Independent Reporting Mechanism (IRM): Georgia End-of-Term Report 2016–2018, pp.26-28, https://www.opengovpartnership.org/wp-content/uploads/2019/08/Georgia_End-of-Term_Report_2016-2018_EN.pdf

³⁹ Freedom House, Nations in Transit 2021, Georgia, <https://freedomhouse.org/country/georgia/nations-transit/2021>.

⁴⁰ Freedom House, Freedom in the World 2021, Georgia, <https://freedomhouse.org/country/georgia/freedom-world/2021>

⁴¹ International Budget Partnership, Open Budget Survey 2019: Georgia, <https://www.internationalbudget.org/open-budget-survey/country-results/2019/georgia>

⁴² Ministry of Justice, [National Anti-Corruption Strategy 2019-2020](#)

⁴³ Transparency International Georgia, Corruption and Anti-Corruption Policy in Georgia: 2016-2020, 21 October 2020, <https://transparency.ge/en/post/corruption-and-anti-corruption-policy-georgia-2016-2020>

⁴⁴ Transparency International Georgia, Uninvestigated Cases of Alleged High-Level Corruption in Georgia: A Periodically Updated List, 23 August 2021, <https://transparency.ge/en/blog/uninvestigated-cases-alleged-high-level-corruption-georgia-periodically-updated-list>

⁴⁵ Transparency International Georgia, Is Georgia a Captured State? 11 December 2020, <https://transparency.ge/en/blog/georgia-captured-state>

major efforts to ensure the independence of the judiciary and the prosecution. More specific anti-corruption reforms that should be carried out include:

- adopting a standalone FoI law including provisions on the establishment of an independent monitoring and enforcement mechanism, on the expansion of the list of entities, including the state-owned enterprises, to be covered by this law, on the introduction of the public interest test and declassification of secret information of high public interest, and on the increase of integrity standards within the public sector
- ensuring that all key government agencies, especially those directly tasked with the fight against corruption (for example, the chief prosecutor's office, state security service, Ministry of Internal Affairs, Ministry of Defence) carry out corruption risk assessments and develop and implement integrity strategies/action plans as a commitment in the national anti-corruption and OGP action plans
- improving the existing mechanism for whistleblower protection by identifying a responsible institution that will develop standards for whistleblower reporting, coordinate the implementation of these standards in public institutions (especially in law enforcement agencies), provide consultations, gather statistics, raise awareness and follow-up on whistleblower report investigations
- improving the conflict of interest legislation and mechanisms for preventing conflicts of interest by identifying a responsible body that will respond to cases, provide consultations, set standards and specific rules on how to avoid and resolve conflicts of interest
- publishing information about the shareholders of joint stock companies and beneficial owners of legal entities. The companies that refuse to do so should be denied participation in public procurement. The procedures for blacklisting the companies and excluding them from the public procurement system should be extended to company managers who are indicted for corruption.
- publishing a complete information and database on the privatisation of state property, public tenders (including information on sub-contractors) and public officials' assets in open data format
- further improving the system of verification of public officials' asset declarations by focusing on the identification of possible cases of corruption, illicit enrichment, conflict of interest, incompatibility and "revolving doors",⁴⁶ and by improving the rules for the selection of the members of the independent commission responsible for selecting the declarations for verification⁴⁷

Georgia's commitments at the 2018 International Anti-Corruption Conference (IACC) cover a broad spectrum of thematic areas ranging from FoI, public procurement and the work of SOEs to the SDGs and the use of blockchain technology in public registry services. However, considering the severity of corruption related challenges facing Georgia, described above, and the number and breadth of the reforms that need to be implemented to address them adequately, the IACC commitments are not consistent with the problems at hand. In other words, even if all of these commitments were fully implemented, the anti-corruption environment would not improve to the extent to overcome any of the main challenges.

⁴⁶ According to Transparency International, "the term 'revolving door' refers to the movement of individuals between positions of public office and jobs in the same sector in the private or voluntary sector, in either direction. If not properly regulated, it can be open to abuse".

⁴⁷ Transparency International Georgia, Transparency International Georgia's Proposals for Georgia's National Anticorruption Strategy and 2020-2021 Action Plan, 2 March 2021, <https://transparency.ge/en/blog/transparency-international-georgias-proposals-georgias-national-anticorruption-strategy-and>; The Institute for Development of Freedom of Information, Recommendations for the New Anti-Corruption Strategy and Action Plan, 9 February 2021, https://idfi.ge/public/upload/Article/ENG%20recommendations_for_the_new_anti-corruption_strategy_and_action_plan.pdf

That being said, commitments such as improving the FoI framework, conducting corruption risk assessments in corruption prone sectors, increasing access to public procurement information and increasing the transparency and accountability of the SOEs are important and do contribute to a better anti-corruption environment. Assessment of the implementation of these commitments can be found below.

PROGRESS ON COMMITMENT IMPLEMENTATION

COMMITMENT NAME: Georgia is committed to further increase access to public information.

THEMATIC AREA: legislative and institutional framework

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: this commitment was included in national anti-corruption strategies and action plans of 2015, 2017, and 2019–2020, in national OGP action plans of 2014–2015 and 2016–2017, and in Public Administration Reform Action Plan of 2019–2020.

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

Not fulfilled/dropped

X

This is a long-standing, seven year commitment from the Georgian government to improve legislative and institutional FoI framework by adopting a new, standalone law with stronger safeguards to increase access to public information. The draft FoI law that was prepared with active involvement of CSOs in 2014 included the following important innovations:

- an independent oversight body, a freedom of information commissioner with the authority to issue administrative fines to public agencies that violate the FoI legislation
- a unified registry to categorise and manage public information, and to allow quick and simple access to it
- an expanded list of agencies responsible for granting access to information, including state-owned enterprises
- reduced number of working days from ten to three for issuing readily available information
- an obligation of public agencies to explain the damage that could be inflicted on the state and society by publishing the classified information as well as their obligation to declassify secret information that is in high public demand⁴⁸

In October 2014, this draft was shared with the Ministry of Justice, which put it on hold for more than two years. In May 2017, the ministry shared the updated draft with the members of the Anti-Corruption Council and the OGP Forum. The latter provided their feedback. As part of the OGP Forum, Georgian CSOs prioritised the following:

- expanding the provisions of the new FoI law to the state-owned companies
- proactively publishing detailed data on individual salaries, bonuses and business trip allowances of public servants

⁴⁸ OGP Independent Reporting Mechanism (IRM): Georgia Progress Report 2016–2017, pp. 50-52, https://www.opengovpartnership.org/wp-content/uploads/2019/01/Georgia_MidTerm_Report_2016-2018_EN.pdf

- defining more clearly what type of information can be classified and under what conditions personal information in high public demand can be declassified
- defining clearly who will be responsible for making the decision on disclosing the classified information based on the public interest test and what specific criteria will be applied in such instances

However, the ministry has not reacted to that feedback, and the draft has not been agreed upon within the government to this day.⁴⁹

Challenges to effective commitment implementation

The implementation of this commitment has stalled since 2017. According to the OGP IRM assessment, the main challenge in the adoption of a standalone FoI law is the resistance from law enforcement and security agencies that are reluctant to subject themselves to the provision on the creation of a new monitoring and enforcement body, information commissioner, with a mandate to impose sanctions for the violation of the law.⁵⁰ The lack of coordination and communication between different public agencies to explain the novelties introduced by the draft could be another reason for delay.

Finally, the fact that in 2020–2021 the OGP and anti-corruption policy coordination function, including working on the FoI draft law, moved from the Ministry of Justice to the Administration of the Government (AoG),⁵¹ followed by the first wave of the Covid-19 pandemic, has further hampered this process. It is noteworthy that in the case of the OGP, the transfer of coordination functions to the AoG was based on the CSO recommendations to ensure that the OGP process is more efficient and that the state agencies feel more responsibility to their commitments.⁵² However, in the case of the Anti-Corruption Council, the transfer of functions to the AoG was the government's hasty, arbitrary decision, not based on CSO recommendations. While these transfers and the Covid-19 pandemic may be legitimate reasons for delay, the CSO representatives interviewed for this report believe that the real reason is the lack of the government's will, stemming from the uncontrolled domination of the ruling party over almost all state institutions in Georgia. It is indicative that most of the work on improving the existing FoI framework was done seven years ago and there has not been any major progress made since then.

Opportunities to accelerate commitment implementation

According to CSOs and an independent consultant interviewed for this report, a major opportunity for the government to improve the existing legislative and institutional framework of the FoI in Georgia is to use the vast resources and the strong willingness for assistance from international entities and platforms, such as the EU, the OECD, USAID and the OGP, all of which hold this issue as a high priority. At the same time, the reconvening of the anti-corruption and OGP councils at the AoG will provide these international entities and local CSOs with an opportunity to raise this issue again directly with the relevant public agencies. The post-election

⁴⁹ OGP Independent Reporting Mechanism (IRM): Georgia End-of-Term Report 2016–2018, pp. 26-28, https://www.opengovpartnership.org/wp-content/uploads/2019/08/Georgia_End-of-Term_Report_2016-2018_EN.pdf; Government Decree #110 on Approving the Statute and Composition of the Open Government Interagency Coordination Council, 13 February 2020, <https://www.matsne.gov.ge/ka/document/view/4798598?publication=0>

⁵⁰ OGP Independent Reporting Mechanism (IRM): Georgia End-of-Term Report 2016–2018, p. 27, https://www.opengovpartnership.org/wp-content/uploads/2019/08/Georgia_End-of-Term_Report_2016-2018_EN.pdf

⁵¹ Government Decree #110 on Approving the Statute and Composition of the Open Government Interagency Coordination Council, 13 February 2020, <https://www.matsne.gov.ge/ka/document/view/4798598?publication=0>.

⁵² IDFI, Georgia's Chairmanship of OGP: Advancing the Global, Regional and National Open Government Agenda, 28 February 2017, https://idfi.ge/en/assuming_the_georgia_chairmanship_of_ogp_advancing_the_global_regional_and_national_open_government_agenda

environment after the 2020 parliamentary and 2021 municipal elections could also create a new opportunity to put the FoI issue back on the high political agenda. These elections, especially the parliamentary election, made all stakeholders focus on election and court reforms that overshadowed the OGP and anti-corruption reforms. Political tensions were extremely high between the ruling party and the opposition in the pre-election period and afterwards, and the key donors such as the USAID and the EU that provide the largest contributions for OGP and anti-corruption reforms were busy dissipating those tensions and the resulting crisis.

Recommendations

The government and the parliament should expedite the adoption of the existing draft FoI law that was developed seven years ago. This should be accompanied with a quick round of consultations with stakeholders engaged in the drafting process. The government can take commitments in the 2022–2023 National Anti-Corruption Strategy and the OGP Action Plan to support this process; however, it might not be necessary given this is a pre-existing commitment and the only thing required at this stage is the willingness of the Government to fulfil it.

The government should use the opportunities from international donors, such as the EU, the OECD and the USAID who place a high emphasis on FoI to move the adoption process of the draft law forward.

The government also needs to take the increasing public demand and calls for reform by CSOs and media outlets seriously.

COMMITMENT NAME: For better identification of the corruption risk factors, Georgia is willing to implement corruption risk assessments and carry out comprehensive analyses of the possible corruption risks, especially in corruption prone sectors.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: this commitment was included in the National OGP Action Plan of 2018–2019.

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

This is a new commitment, the implementation of which started after the 18th IACC in 2018. Specifically, in the 2018-2019 National OGP Action Plan,⁵³ the government committed to the following:

⁵³ Georgia's National OGP Action Plan of 2018-2019, pp.14-16 and 26-27 https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

2.1 a) “elaboration by the Secretariat of the Anti-Corruption Council (ACC) in cooperation with the Anti-Corruption Council and OGP Forum members of a corruption risk assessment methodology”

In December 2019, the Anti-Corruption Council at the Ministry of Justice developed the national corruption risk assessment methodology⁵⁴ based on the methodology used by the OECD, Transparency International and other international organisations.⁵⁵ This methodology provides an overview of how to plan the process for corruption risk assessments and how to identify, analyse, manage and monitor the corruption risks by providing specific examples and survey form templates.⁵⁶

It should be noted that to provide a higher-level and closer supervision of anti-corruption reform implementation in Georgia, in March 2021, the Law on Conflict of Interest and Corruption in Public Institutions was amended to grant the function of organisation and administration of the work of National Anti-Corruption Council to the AoG,⁵⁷ which should also include the function of coordinating the process of implementing the corruption risk assessment methodology. However, as of November 2021, the AoG has not convened the council meetings and has not yet recruited relevant staff for the operation of the secretariat of the council. With delays in the convening of the National Anti-Corruption Council and in the development of the new anti-corruption strategy, there has been slow progress in the implementation of the corruption risk assessment methodology in government agencies at the national level.

2.1 b) “according to the corruption risk assessment methodology, assessment of corruption risks in anticorruption divisions (informing the corruption risk assessment progress to the forum and consideration at the forum); + c) according to the corruption risk assessment results and needs, strengthening of the Anti-Corruption Agency under the State Security Service of Georgia the Division of the Criminal Prosecution of Corruption Crimes of the Chief Prosecutor’s Office; + d) and periodical trainings of persons engaged in the investigation of corruption crimes and criminal prosecution in the direction of specialization, including the matters of corruption crimes committed by legal persons and international corruption crimes investigation and criminal prosecution.”

Specifically, the commitment included in the 2018–2019 National OGP Action Plan envisaged conducting corruption risk assessments in the chief prosecutor’s office and in the state security service considered to be the key institutions for fighting corruption in the country.⁵⁸ Yet, even though experts hired by international donor organisations trained the staff of those agencies on the new methodology, they had low interest in drafting their corruption risk assessments

⁵⁴ This methodology was shared by Nino Tsukhishvili, an independent consultant involved in its drafting process. The document is not publicly available for unknown reasons.

⁵⁵ a) OECD, Public Sector Integrity: A Framework for Assessment, 2005, <https://www.serviciocivil.cl/wp-content/uploads/2017/06/Public-Sector-Integrity-a-framework-for-Assessment.pdf>;

b) OECD, Analytics for Integrity: Data-Driven Approaches for Enhancing Corruption and Fraud Risk Assessments, 2019, <https://www.oecd.org/gov/ethics/analytics-for-integrity.pdf>;

c) TI, Corruption Risk Assessment and Management Approaches in the Public Sector, October 5, 2015, https://knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption_risk_assessment_and_management_approaches_in_the_public_sector_2015.pdf;

d) Council of Europe, Corruption Risk Assessment Methodology Guide, December 2010, <https://rm.coe.int/16806ec890>;

e) USAID, Anticorruption Assessment Handbook, February 28, 2009, https://pdf.usaid.gov/pdf_docs/pa00jp37.pdf

⁵⁶ Secretariat of National Anti-Corruption Council/Analytical Department of Ministry of Justice, Corruption Risk Assessment Methodology, December 2019

⁵⁷ Law of Georgia on Conflict of Interest and Corruption in Public Institutions, Article 12(1), <https://matsne.gov.ge/ka/document/view/33550?publication=77>

⁵⁸ Georgia’s National OGP Action Plan of 2018-2019, pp.14-16, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

and integrity strategies/action plans based on that methodology.⁵⁹ Therefore, the OGP commitment was not fulfilled.

Consequently, a separate process started to pilot the corruption risk assessment methodology in other national agencies.⁶⁰ As of November 2021, the EU project Support to the Public Administration Reform in Georgia is assisting three national agencies, the Ministry of Education and Science, the Ministry of Environmental Protection and Agriculture, and the Technical and Construction Supervision Agency under the Ministry of Economy and Sustainable Development to develop their corruption risk assessments based on the aforementioned methodology. The latter two have already completed this assessment.⁶¹

However, the assessment results are not publicly available. According to an independent consultant involved in this process, it is up to the relevant agencies to publish these results. Given that the assessments might reveal sensitive issues, the agencies might be reluctant to disclose these to the public. However, in the spirit of open governance and the fight against corruption, citizens have the right to know the assessment results. By publishing these results, public agencies would raise the standard of their transparency and accountability, which is the rationale behind this commitment. Based on the comprehensive analysis of possible corruption risks, the pilot agencies are later expected to draft integrity strategies and action plans to address the risks identified.⁶²

According to the representative of the Technical and Construction Supervision Agency, the conducted assessment revealed the development of an up and running electronic platform for issuing permits for the construction of objects of special importance (for example, gas pipelines, water and electricity systems, roads, bridges, railways, airports, sea ports and hydropower plants) as a priority area for them in terms of corruption prevention. The agency representative also noted that the agency plans to publish these permits and other related documents on the platform to increase access to public information and to make its administrative proceedings more transparent. However, they do not have enough funds or resources to launch the electronic platform on their own and need external donor assistance.⁶³

Other priority areas include the reduction of the number of simplified procurement tenders and tenders with only one bidder that bypass competitive procurement procedures as well as ensuring equal competition in the recruitment of new staff by refining the staff qualification criteria.⁶⁴ Reducing the number of simplified public agency procurement tenders is a high priority CSOs identified too.⁶⁵

2.2 a) “the development and approval of a three-year (2019-2022) transparency and integrity strategy; +b) and a biennial action plan by eight municipalities as envisaged by the 2018-2019 OGP Action Plan.”

It should be noted that, compared with national level agencies, local governments have shown better progress in the process of developing their corruption risk assessments and analysis as well as integrity strategies and action plans with support from the USAID's Good Governance

⁵⁹ Interview with Nino Tsukhishvili, an independent consultant involved in the drafting of the National Corruption Risk Assessment Methodology and in the trainings of relevant staff from the Chief Prosecutor's Office and the State Security Service, October 20, 2021.

⁶⁰ Tsukhishvili, op cit.

⁶¹ The EU project plan is not a publicly available document. It was shared with TI Georgia by Nino Tsukhishvili working on the project. Under the plan, the EU is assisting relevant public agencies in strengthening their accountability in policy development and in implementing the risk assessment methodology.

⁶² Tsukhishvili, op cit.

⁶³ Interview with the representative of the Technical and Construction Supervision Agency, 12 November 2021.

⁶⁴ Interview with the representative of the Technical and Construction Supervision Agency, 12 November 2021.

⁶⁵ TI Georgia, Simplified Procurement Remains Primary Challenge for Georgia's Public Procurement System, 10 July 2015, <https://transparency.ge/en/post/report/simplified-procurement-remains-primary-challenge-georgia-s-public-procurement-system>

Initiative, the United Nations Development Programme and local CSOs.⁶⁶ Specifically, eight municipalities (Tbilisi, Akhaltsikhe, Gori, Ozurgeti, Senaki, Telavi, Lagodekhi and Zugdidi) are in the process of developing their corruption risk assessment methodologies⁶⁷ while five (Akhaltsikhe, Bolnisi, Dedoplistskaro, Khoni and Ozurgeti municipalities) have already developed integrity strategies and action plans in accordance with the OGP Action Plan commitment.⁶⁸ Yet, this is still little progress given there are 64 municipalities in Georgia.

Overall conclusion: given that the national corruption risk assessment methodology has not been implemented in the Chief Prosecutor's Office and in the state security service as 2018-2019 OGP Action Plan commitment states and that only three other national level agencies and eight municipalities are in the process of piloting this methodology, the commitment can be considered to be only partially fulfilled.

Challenges to effective commitment implementation

According to the AoG representative, the transfer of relevant competences from the MoJ to the AoG was the main reason for the delay in implementing the corruption risk assessment methodology at the national level. While this may have hindered some processes, the transfer took place in March 2021, while the risk assessment methodology was developed in 2019. The more realistic reason for delay to fully implement this commitment was the inability of the MoJ to convince public institutions to use its methodology and undertake the commitment to conduct risk assessments. The ministries and other public agencies had a lot of questions about how to implement the methodology in practice and needed thorough guidance from external experts on this process since they thought the methodology was general and therefore not very practical for them.⁶⁹

That being said, all the work is basically done by international donor organisations since public agencies report that they lack resources, knowledge and understanding of how to develop a corruption risk assessment, an integrity strategy and an action plan with sound indicators to measure progress. For instance, the corruption risk assessments in the Ministry of Environmental Protection and Agriculture and in the Technical and Construction Supervision Agency as well as in selected municipalities, some of which have also developed integrity strategies and action plans, were drafted with external support, which creates the lack of ownership in the responsible agencies over those documents.⁷⁰

Opportunities to accelerate commitment implementation

The adoption of the new National Anti-Corruption Strategy/Action Plan and the new OGP Action Plan for 2022–2023 would help move the implementation of the corruption risk assessment methodology forward. These documents should provide an update on the

⁶⁶ OGP Independent Reporting Mechanism (IRM): Georgia Transitional Results Report 2018–2019, 3 August 2021, pp.6-7, https://www.opengovpartnership.org/wp-content/uploads/2021/08/Georgia_Transitional-Results_Report_2018-2019_EN.pdf

⁶⁷ USAID Good Governance Initiative in Georgia, Facebook post on the project that is implemented in partnership with TI Georgia, 14 April 2021, https://www.facebook.com/permalink.php?story_fbid=2746800852297177&id=1512130755764199. As indicated in the post, Batumi municipality was also part of this project, however it later dropped the commitment based on the information provided by TI Georgia.

⁶⁸ OGP Independent Reporting Mechanism (IRM): Georgia Transitional Results Report 2018–2019, 3 August 2021, pp.6-7, https://www.opengovpartnership.org/wp-content/uploads/2021/08/Georgia_Transitional-Results_Report_2018-2019_EN.pdf

⁶⁹ Interview with Project Coordinator of the Georgian Young Lawyers' Association, 27 October 2021.

⁷⁰ Interview with an independent consultant assisting national level public agencies in implementing the Corruption Risk Assessment Methodology, 20 October 2021.

progress made so far and allow the government and other stakeholders to determine which national level public agencies should implement this methodology in the first place, when and how.

However, as of November 2021, it was still not known when the aforementioned documents are to be adopted. The OGP Local Program is a good opportunity for municipalities to implement anti-corruption commitments at the local level. Examples include Akhaltsikhe, Khoni and Ozurgeti municipalities, which were admitted to the OGP Local Program in 2020 and are now busy implementing specific commitments, including carrying out comprehensive corruption risk assessments and developing integrity and open data strategies and action plans.⁷¹

Recommendations

The government should capitalise on the continuous assistance from international donor organisations and local CSOs and address their recommendation to expedite the development of the new national anti-corruption strategy and the action plan and of the new OGP action plan.⁷²

The AoG and the members of the National Anti-Corruption Council should explain to public agencies the importance and added value of having corruption risk assessments and the mandatory integrity documents in place. The AoG should also identify corruption prone sectors as per the commitment text and focus their efforts on convincing relevant institutions to implement these documents in the first place.

All key government agencies, especially those directly tasked with the fight against corruption (for example, the chief prosecutor's office, state security service, Ministry of Internal Affairs, Ministry of Defence) should take the development and implementation of such documents as a commitment in the national anti-corruption and OGP action plans. There should be stronger will, coordination and collaboration within the government to make it happen, and the AoG should take the lead in facilitating this process.

COMMITMENT NAME: Georgia is willing to establish the SDG Tracker that will enable effective and transparent monitoring of the implementation of the UN SDGs.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: this commitment was included in National OGP Action Plan of 2018–2019

⁷¹ a) OGP Georgia, Akhaltsikhe, Ozurgeti and Khoni Joined Global Partnership on Open Government, 20 October 2020, <https://ogpgeorgia.gov.ge/en/news/ogp-local-is-growing/>;

b) Ozurgeti OGP Action Plan of 2021, <https://www.opengovpartnership.org/documents/action-plan-ozurgeti-georgia-2021-2021/>;

c) Akhaltsikhe OGP Action Plan of 2021, <https://www.opengovpartnership.org/documents/action-plan-akhaltsikhe-georgia-2021-2021/>;

d) Khoni OGP Action Plan of 2021, <https://www.opengovpartnership.org/documents/action-plan-khoni-georgia-2021-2021/>

⁷² IDFI, NGO Statement: Suspended Process of Open Government Partnership (OGP) in Georgia, 7 December 2021, https://idfi.ge/en/ngos_joint_statement_937352

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

This is a new commitment included in the 2018–2019 OGP Action Plan.⁷³ The AoG committed to the following:

3a) “activation of the internal electronic system (the internal operations system will be accessible only for governmental agencies) [of the Tracker]”

According to the AoG representative interviewed for this report, in 2019, the AoG activated the SDG Tracker internal electronic system. The system was created by the Digital Governance Agency (DGA). Public agencies are responsible for entering data into the system, which is then finally verified by the AoG, which serves as the secretariat of the SDG Council. As the AoG representative noted, relevant public servants responsible for implementing the SDG objectives and indicators were trained on how to use the new tracker’s electronic system. Each indicator has a designated person from each agency who is responsible for reporting progress on the indicator. The SDG monitoring through this system started in 2020. Monitoring is done annually in February of each year.⁷⁴

3b) “activation/functional setup of the SDG web-page, including SDG Tracker and other components, where the internal system data are generated”

After the AoG verification, data generated through the internal system is published on the tracker’s web page at sdg.gov.ge. This web page allows users to compare baseline and progress indicators across different attributes, such as gender and age, and analyse the presented data through a visualisation diagram. However, the up-to-date and disaggregated data on the progress of SDG indicator implementation, including those covering the fight against corruption, is missing on the tracker. Further, the module on projects is empty, while the calendar provides information about a handful of activities conducted. When browsing the SDG Tracker web page multiple times and failing to find the data needed, the user is likely to give up and stop using this page. Website analytics are not done and there is no available data on how many people use the portal.⁷⁵

3c) “promoting the SDG Tracker as the governmental policy monitoring and assessment possibility”

There is the SDG Council⁷⁶ and four thematic working groups on democratic governance,⁷⁷ social inclusion,⁷⁸ economic development,⁷⁹ and sustainable energy and environmental protection.⁸⁰ The published list of members⁸¹ indicate that these are multi-party working groups composed of public agencies, CSOs, international donors, private sector and

⁷³ Georgia’s National OGP Action Plan of 2018-2019, pp.16-17, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

⁷⁴ Interview with AoG representative, 12 October 2021.

⁷⁵ SDG Tracker, sdg.gov.ge, last accessed 30 November 2021.

⁷⁶ SDG Council, <https://sdg.gov.ge/text-page/33>

⁷⁷ Democratic Governance Working Group, <https://sdg.gov.ge/text-page/41>

⁷⁸ Social Inclusion Working Group, <https://sdg.gov.ge/text-page/38>

⁷⁹ Economic Development Working Group, <https://sdg.gov.ge/text-page/39>

⁸⁰ Sustainable Energy and Environmental Working Group, <https://sdg.gov.ge/text-page/40>

⁸¹ List of members of the Democratic Governance Working Group, <https://sdg.gov.ge/helper/GetFile?fileStoreId=322z>

academia. According to the published terms of reference,⁸² the group meetings are organised once a year. Each working group has a chair representing the public agency and two co-chairs from the specialised UN agency and the civil society organisation. The latter is a rotating position and is nominated from the group member CSOs. The first voluntary national review on SDG implementation was produced in 2016⁸³ and the second, more comprehensive one in 2020. The latter was focused on human capital, economic development and democratic governance.⁸⁴ The challenge identified by CSO respondents and independent experts is that many, including students and other stakeholders working on public policy or public administration issues let alone the general public, are not aware that the SDG Tracker web page exists. Therefore, it is hard to tell if the tracker has had any impact on the fight against corruption.

3d) “and activation of the information part of SDG Tracker web-page – placement of a schedule/information related to all the projects, ongoing or planned activities at a national scale”

The section on information on on-going or planned projects is empty on the tracker’s web page while the calendar provides information about a handful of activities conducted.⁸⁵

Overall conclusion: considering that the tracker’s internal system data that is only available to government agencies and is not fully generated on the tracker’s web page for public consumption, the information on on-going or planned projects is not included on the web page and the tracker has not been promoted to the public as committed in the 2018–2019 OGP Action Plan, this commitment is only partially fulfilled.

Challenges to effective commitment implementation

According to an interview conducted for this report with a AoG representative, there is a technical problem in the tracker’s external system and that is why the full data is only available in the internal system. The representative also noted that the DGA is working on fixing this problem.

The absence of information on on-going or planned projects on the tracker’s web page and of the tracker’s public promotion could be attributed to the lack of dedicated staff and resources within the AoG.

Opportunities to accelerate commitment implementation

Involving the private sector and local government representatives as members of the SDG Council and in the thematic working groups with the help of CSOs is a good opportunity to raise public awareness about the SDG Tracker and to enrich this platform with more comprehensive data on the progress on the implementation of SDG indicators. The AoG should involve businesses in the SDG Council work and thematic working groups to promote the SDG platform to the private sector and to contribute to improving corporate social responsibility among businesses. At the same time, local governments could use this platform to develop and implement needs based policies to improve the lives of those in local communities.

⁸² Terms of Reference of the Democratic Governance Working Group, <https://sdg.gov.ge/helper/GetFile?fileStoreId=307>

⁸³ Voluntary National Review 2016, <https://sdg.gov.ge/helper/GetFile?fileStoreId=276>

⁸⁴ Voluntary National Review 2020, <https://sdg.gov.ge/helper/GetFile?fileStoreId=259>

⁸⁵ SDG Tracker, sdg.gov.ge, last accessed 30 November 2021.

Recommendations

The main recommendation for government agencies would be to proactively publish detailed data in real time on the SDG Tracker to show how they are fulfilling their commitments in accordance with the target SDG indicators. Specifically, internal government data should be automatically generated on the tracker's web page, and interested organisations and individuals should be given an application programming interface (API) to link their own platforms to the tracker.

In addition, the AoG should organise more frequent meetings of the SDG working groups and make their work more inclusive by involving diverse stakeholders from different sectors, which should demonstrate the progress made in the implementation process. With the involvement of CSOs and the media outlets, a large-scale information campaign about the tracker should be conducted in universities across the country to ensure active use of the platform.

COMMITMENT NAME: Georgia will continue working towards increasing transparency and accountability of the state-owned enterprises by publishing the necessary information.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: this commitment was included in National Anti-Corruption Strategies and Action Plans of 2017 and 2019–2020 as well as in National OGP Action Plan of 2018–2019.

Current level of progress in commitment implementation

Fulfilled

X

Partially fulfilled

Not fulfilled/dropped

This is a pre-existing commitment the implementation of which was started in 2016 and was on-going when the commitment was made at the 2018 IACC. In the 2018–2019 National OGP Action Plan,⁸⁶ the government committed to the following:

4a) “the state agencies regularly publish information about the operation, governance, and finances of the SOEs. The 2018–2019 OGP Action Plan indicates that necessary information that should be published on the website of the National Agency of State Property (nasp.gov.ge) should include the name of enterprise, contact data, information about its establishment, governance, capital, activity, state share in its capital as well as financial standing and outcomes of the enterprise.”

In an interview conducted for this report, a representative of the Ministry of Finance noted that the first report published in 2016 about the operation, governance and finances of SOEs was a few pages long report about two or three enterprises only. This was the baseline. However, as of November 2021, the fiscal risk analysis produced annually by the MoF as an annex to the state budget, covers all SOEs operating at the national level as well as municipal SOEs.

⁸⁶ Georgia's National OGP Action Plan of 2018-2019, pp. 25-26, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

This document includes data on the profile, financing, dividends, lending, non-financial transfers and debt governance of the SOEs as well as their balance sheets and income statements with details on their assets, equity, liabilities, revenues and expenses. The document also provides sensitivity analysis of financial risks the state faces from several large SOEs over the next five years and the SOE reform concept.⁸⁷ In addition, the MoF launched a new portal, reportal.ge, which contains financial and management reports from SOEs and private companies operating in Georgia.

4b) “the adoption and publication of the data collection template”

In 2017, the National Agency of State Property (NASP) within the Ministry of Economy and Sustainable Development created a data collection methodology and guidelines⁸⁸ as well as a standard template consisting of the necessary categories of information that should be provided by the SOEs operating under the NASP management.⁸⁹ The SOEs under the ownership of other public agencies are also using this methodology. Since 2017, the NASP published the completed annual reports of the SOEs (97 as of November 2021). These reports include key information about the SOEs, such as the name of enterprise, contact data, information about its establishment, governance, capital, activity, state share in its capital as well as financial standing and outcomes of the enterprise.⁹⁰ The Partnership Fund, a state-owned investment fund with equity of GEL2.5 billion (approximately US\$0.75 billion) and with 100 per cent shares in the Georgian Railway and Georgian Oil & Gas Corporation, publishes annual financial and independent audit reports of its subsidiary companies.⁹¹ In its audited standalone financial statements, the fund also publishes information about the annual total income from dividends, including the names of subsidiaries and the amount of dividends received from them each year.⁹² Finally, the asset declarations of SOE directors are published annually on declaration.gov.ge run by the Civil Service Bureau.⁹³

4c) “development of the corporate governance guide for the SOEs.”

In 2021, the MoF published a report about the corporate governance practices observed in the SOEs,⁹⁴ while in September 2021, the government adopted the corporate governance code including relevant guidelines for the SOEs.⁹⁵ This code was adopted in the form of a government resolution. It applies to the Georgian SOEs identified by the State Enterprise Reform Council under the government, which is headed by the Minister of Finance. The code is not publicly available. The MoF representative shared it to the author of this assessment. The code covers issues related to the SOEs’ governance structure, staff promotion and remuneration, ethics and conflicts of interest, internal audit and their transparency. The SOEs have to submit reports to the MoF about their compliance with this code and provide justification if they refuse to send such a report.

Overall conclusion: the analysis above shows that the NASP has developed and published a unified reporting template containing the name of the enterprise, contact data, information about its establishment, governance, capital, activity, state share in its capital, financial

⁸⁷ Ministry of Finance, Fiscal Risk Analysis 2020, https://mof.ge/images/File/publications/2021/22-01-2021/FRS_ENG_2020_Dec.pdf.

⁸⁸ The NASP, Data Collection Methodology and Guidelines, <https://drive.google.com/file/d/162uxt35xizaL83-clbxfFdq3orijNOPN/view>.

⁸⁹ The NASP, Data, Collection Form, <https://drive.google.com/file/d/1smWPPCM7YZh7xoupJkwf1Q48ZYYzGeFi/view>.

⁹⁰ The NASP, Business Reports of SOEs, http://nasp.gov.ge/pages/?%E1%83%A1%E1%83%90%E1%83%AC%E1%83%90%E1%83%A0%E1%83%9B%E1%83%9D%E1%83%94%E1%83%91%E1%83%98=&page_id=22

⁹¹ Partnership Fund, Financial Audit Reports, <https://www.fund.ge/site/view/12>

⁹² Partnership Fund, Separate Financial Statements for the year ended 31 December 2020, p. 15, https://fund.ge/upload/media/PF_%20SeparateFS2020_ENG.pdf

⁹³ Civil Service Bureau, <https://declaration.gov.ge/>

⁹⁴ Ministry of Finance, Report on Corporate Management Practices of State Enterprises in Georgia, August 2021, https://mof.ge/images/File/publications/2021/03-09-2021/SOE%20Corporate%20Governance%20Report_August%2031.pdf

⁹⁵ The Government of Georgia, Resolution #1618, 8 September 2021

standing and outcomes of the enterprise. The SOEs under the ownership of the NASP complete this template and publish it on the agency's web page, nasp.gov.ge, on an annual basis. The corporate governance code was also adopted in the form of a government resolution. Therefore, this commitment can be considered as fully implemented.

Challenges to effective commitment implementation

While commending the increased public access to information about SOEs in Georgia, the CSOs interviewed for this report also outlined a few challenges for the monitoring of corruption risks. According to them, a clear challenge is that the SOEs are not covered by the existing FoI legislation, which complicates obtaining information from them and is therefore a major barrier towards ensuring adequate transparency of their work. For instance, the SOEs do not publish the list of staff names and disaggregated data about their administrative costs and staff salaries that keep increasing.

This challenge was also confirmed by the NASP representatives who noted that this is personal data that cannot be made public. By publishing this data, the state would put the SOEs in a disadvantaged position in competition with private enterprises, which keep such data confidential. A related challenge mentioned by the CSOs is that the state has no common vision or criteria for establishing the state enterprise. It can be established in any sector in Georgia while the international standard is not to have the SOEs established in sectors where they would compete with private companies.

Finally, there is no single, publicly available registry containing full information about all SOEs that exist at all levels in the country. The existing portal.ge platform is not a dedicated platform on SOEs and it does not contain data on all SOEs operating in the country.

Opportunities to accelerate commitment implementation

The new corporate governance code, adopted in the form of the government resolution on 8 September 2021, and the amendments to the Law on Entrepreneurs, which entered into force from 1 January 2022,⁹⁶ provide a good opportunity to increase the transparency and accountability of the SOEs through specific provisions on information disclosure, accountability and integrity that will apply to all state enterprises operating in the country. In the context of providing more information about the SOEs, the NASP is considering an opportunity to publish the list of staff positions within the SOEs without specifying their names.

The corporatisation of the SOEs to transform and restructure them as businesses and to differentiate between the government-owned and the state-owned as well as between the market and the non-market enterprises is another good opportunity to increase the transparency and accountability of the SOEs and their financial sustainability and independence.

Finally, creating a unified online public registry, which would provide comprehensive information about finances and activities of all SOEs operating in Georgia, would be a good opportunity to increase their transparency and accountability.

Recommendations

⁹⁶ Law of Georgia on Entrepreneurs, <https://matsne.gov.ge/en/document/view/5230186?publication=0>.

There should be a single, publicly available registry where to find information about all SOEs that exist at all levels in the country, including all municipal SOEs.

Further, the respondents of this research noted that, while publishing financial information about the SOEs, the state agencies should also provide an overview on what they are going to spend their cash flow surplus from the operation of the SOEs on: new acquisitions or reinvestments. Information sharing and coordination on the SOEs between different state agencies should be institutionalised.⁹⁷

For greater accountability, all SOEs should have a functioning supervisory board involving not only the prime minister and the relevant ministers but also independent members.

At the same time, the state agencies should continue to be attentive to the CSOs' recommendations to further increase the transparency and accountability of the SOEs and should use the formats of the national anti-corruption and the OGP councils to take relevant commitments in this direction.

COMMITMENT NAME: Georgia will continue working towards effective implementation of the principles of the Open Contracting Data Standard.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: this commitment was included in National Anti-Corruption Strategy and Action Plan of 2019–2020 as well as in National OGP Action Plans of 2016–2018 and 2018–2019.

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

This is a pre-existing commitment, which was first included in the 2016–2018 National OGP Action Plan.⁹⁸ In the latest 2018–2019 OGP Action Plan,⁹⁹ the government committed to the following:

5a) “transfer of the current year information available in the module of public procurement electronic annual plans built in the e-procurement system and disclosure on the web-page – opendata.spa.ge”

With support of the World Bank and the Open Contracting Partnership (OCP), in 2019, the State Procurement Agency (SPA) launched a new open data portal, opendata.spa.ge. This portal contains exported and structured tender data (published in the JSON format) from the unified

⁹⁷ Interview with the senior consultant in public financial management at Policy and Management Consulting Group, 4 November 2021.

⁹⁸ Georgia's National OGP Action Plan of 2016-2018, pp.29-31, https://www.opengovpartnership.org/wp-content/uploads/2017/04/Georgia_NAP_2016-2018_ENG.docx

⁹⁹ Georgia's National OGP Action Plan of 2018-2019, pp. 23-24, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Georgia_Action-Plan_2018-2019_ENG.doc

SPA portal. It has three sections on electronic tenders, annual procurement plans of procuring entities, and simplified and consolidated tenders.¹⁰⁰

5b) “creation of a web-page of new visualization on the database generated by OCDS (the new web-page will assist users in retrieving desired information in any correlation)”

Also, in 2019, the SPA launched another open data portal, odapi.spa.ge (it is more accessible at vod.spa.ge), including visualisations with charts and tables. This portal was developed by an IT specialist from the World Bank.¹⁰¹

5c) “creation of an API for accessing OCDS-based database”

The portal also includes an application programming interface (API) to allow interested organisations to automatically link their websites to the portal and be able to undertake deeper analysis of the available data.¹⁰² However, this API only covers historical data through the first quarter of 2019, since no new data has been published since then.¹⁰³

5d) “ensuring rather detailed (minimum of the second level) instructions of the CPV codes in electronic tenders of the e-procurement system”

While detailed instructions of the CPV (common procurement vocabulary) codes of the specific goods or services procured by public agencies were introduced to the e-procurement platform, the detailed CPV codes have not been integrated into the two open data portals, described above.

5e) “OCDS-based database update; complete coverage of historical data created since 2011 and systemic update of current data.”

These two portals function as a static repository of a part of the public procurement data rather than a continuously updated database that can be reused. The data published so far includes historical records through the first quarter of 2019. This data was updated manually rather than automatically in real time, which goes against the principles of the OCDS. Another problem is that data is only published in the JSON format, which is useful for a limited circle of IT specialists, but it is not useful for those using other formats such as the CSV or XML, for instance. Further, there is no data on simplified procurement contracts where corruption risks are the highest as well as no data on consolidated tenders. Therefore, even the CSOs working in the field are not using these new portals for public tender monitoring let alone the general public that is not even aware of their existence given the SPA has not conducted an information campaign about the portals or an in-depth analysis of the public use of them.¹⁰⁴

Overall conclusion: based on the analysis above and given that the SPA has not created an API for accessing the up-to-date data from the OCDS-based database and has not updated this database since 2019 as committed in the 2018–2019 OGP Action Plan, this commitment is only partially fulfilled.

Challenges to effective commitment implementation

¹⁰⁰ State Procurement Agency, <http://opendata.spa.ge/#/>, last accessed on 30 November 2021.

¹⁰¹ Transparency International Georgia, Access to Public Procurement Database in Georgia Remains a Problem, 18 September 2020, <https://transparency.ge/en/blog/access-public-procurement-database-georgia-remains-problem>

¹⁰² State Procurement Agency, <https://odapi.spa.ge/api/swagger.ui>, last accessed 30 November 2021.

¹⁰³ OGP Independent Reporting Mechanism (IRM): Georgia Transitional Results Report 2018–2019, 3 August 2021, p. 13, https://www.opengovpartnership.org/wp-content/uploads/2021/08/Georgia_Transitional-Results_Report_2018-2019_EN.pdf

¹⁰⁴ Transparency International Georgia, Access to Public Procurement Database in Georgia Remains a Problem, 18 September 2020, <https://transparency.ge/en/blog/access-public-procurement-database-georgia-remains-problem>

According to the SPA, the main reason for the setback in implementation of this commitment is a lack of resources since the agency is currently focused on fulfilling the commitments stemming from the EU-Georgia Association Agreement, including the technical implementation of relevant legislative changes within the procurement system.¹⁰⁵ That being said, TI Georgia believes that the SPA had great technical and expert support from the World Bank and the Open Contracting Partnership to move the implementation of this commitment forward, but the agency did not capitalise on this support, citing the reason mentioned above.¹⁰⁶

Opportunities to accelerate commitment implementation

According to interviews collected for this report, the most viable opportunity for the SPA is to use the vast resources, expertise and experience of the World Bank and OCP with direct stakes in this specific commitment and of other international donors and local CSOs to get the new open data portals up and running.

The SPA could also use the support of businesses that could provide additional resources in the context of public-private partnerships and corporate social responsibility. They could build innovative applications and services and generate income based on the government created public procurement portals that meet the OCDS principles. This would also reduce transaction costs, increase economic activity and ease the efforts of civil society to monitor public tenders.

Integrating the two new open data portals into the unified SPA portal could be considered an opportunity too since they would be better promoted to the journalists and the wider public. It would also become easier for the SPA and the CSOs to explain how the portals work as part of the unified platform, as opposed to having them as separate platforms. The SPA should cooperate with CSOs in individual and joint working meetings and consultations. For instance, as evidenced by TI Georgia's experience, the agency had a practice of periodically meeting with CSOs some years ago, but this was discontinued after CSO representatives asked hard questions related to direct procurement contracts of number of procuring bodies, such as the AoG, disappearing from the public procurement website as well as some entities, such as the Ministry of Internal Affairs, not uploading their contracts.¹⁰⁷ Nevertheless, the CSOs are willing to resume their participation in such meetings, and the SPA can use this as an opportunity to move ahead in implementation of this commitment.

Recommendations

The SPA should use the financial and IT support that is readily offered, and has been offered, by the World Bank and the OCP to mobilise the necessary resources to get its new open data portals up and running in accordance with the OCDS principles. Priority should be given to publishing up-to-date, real-time data in various open data formats on all public procurement procedures and stages and providing an API to interested individuals and organisations to re-use this data for their purposes.

The SPA should develop ownership of its open data portals. Otherwise, if all work is done through external support there is little chance that the agency will get such portals up and running once the donor project is completed, as evidenced in this case. The donor support

¹⁰⁵ Transparency International Georgia, Access to Public Procurement Database in Georgia Remains a Problem, 18 September 2020, <https://transparency.ge/en/blog/access-public-procurement-database-georgia-remains-problem>.

¹⁰⁶ Transparency International Georgia, Access to Public Procurement Database in Georgia Remains a Problem, 18 September 2020, <https://transparency.ge/en/blog/access-public-procurement-database-georgia-remains-problem>.

¹⁰⁷ Interview with project manager at Transparency International Georgia, 15 October 2021.

should mainly be financial while the rest of the work, including planning the concept of the portal and testing it, should be the responsibility of the SPA.

Another recommendation for the SPA and the donors is to involve CSOs at the planning and design stage of developing such portals to provide them with an opportunity to raise issues of concern from the very beginning. CSO engagement should be a mandatory requirement. The SPA should engage CSOs in individual consultations and joint workshops and use their resources to implement the OCDS principles.

Finally, in collaboration with international donors, CSOs and the media, the SPA should carry out a large-scale information campaign and awareness raising measures on its new open data portals to generate more users for those portals. It is therefore necessary to provide training and consultations on the use of portals to different groups of society and to show them specific benefits.

COMMITMENT NAME: Georgia is committed to continue introduction of innovative solutions in the property management system through piloting a blockchain solution to validate property transactions that is meant to protect landowners from corruption risks.

THEMATIC AREA: public integrity

COMMITMENT TIMEFRAME: not stated

COMMITMENT SOURCE: N/A

COMMITMENT SOURCE: not applicable

Current level of progress in commitment implementation

Fulfilled

Partially fulfilled

X

Not fulfilled/dropped

The implementation of this commitment started in 2017. According to the representative of the National Agency of Public Registry (NAPR), the main objective was to simplify the property registration procedures to ensure a higher protection of related transactions through the use of new technologies, and to increase property owners' trust in public registration services. To that end, since February 2017, the NAPR has started applying blockchain technology in its property registration service, making Georgia the first country to do this.¹⁰⁸ The blockchain database has no centralised system or control unit that would be vulnerable to hacker attacks. Its records are stored in tens of thousands of computers around the world. By ensuring the security, transparency and accessibility of any transaction, the blockchain prevents corruption from occurring. Using this technology reduces transaction costs too since it is an automated system requiring no intermediaries. Each property registration document has a unique hash code, which is generated in the NAPR system. This code is sent to the global blockchain network, which confirms the validity of the document while excluding any illegal manipulation to change the data provided. Between 2017 and 2020, the NAPR applied blockchain technology to over three

¹⁰⁸ National Agency of Public Registry, Papuna Ugrekhelidze delivered a speech on the use of blockchain technology at an international conference organised by the World Bank, 2018, <https://napr.gov.ge/p/1697>

million property registration documents published on its website.¹⁰⁹ According to the agreement with the government of Georgia, during this period, the bitcoin mining company BitFury was registering unique hash codes of land registry documents on the global bitcoin platform for free.^{110, 111} This was part of the company's corporate social responsibility in exchange for consuming large state electricity resources for its bitcoin mining enterprise in Georgia.

While the blockchain technology can ensure the security, integrity and authenticity of personal data, including property data in this specific case, whether it is successful or not largely depends on social or political settings in a given country rather than on the technology itself. There also needs to be a digital infrastructure and digital literacy in place before piloting blockchain enabled registries, particularly in developing countries like Georgia. This is further complemented by high costs required for the application of such technology in the public sector.¹¹²

Overall conclusion: the further assessment of the implementation of this commitment in Georgia proved those conclusions right. For instance, while browsing the NAPR website, it became evident that not all property documents registered in the system between 2017 and 2020 are protected through blockchain technology, while those documents that have been registered in the system since January 2021 are not protected at all since the agreement with BitFury expired.¹¹³ This leads to the assessment that the commitment has only been partially fulfilled.

Challenges to effective commitment implementation

According to interviews collected for this report, this commitment does not serve anti-corruption purposes directly. This was confirmed by the NAPR representative too who stated that the commitment was just an additional data protection measure to increase public trust in property registration services. Prolonging an agreement with BitFury could be a challenge considering that the blockchain technology is an expensive service requiring high power consumption¹¹⁴ and the company might not be interested in continuing to provide it for free as before. It is noteworthy that, according to the allegations of the opposition politicians, the founder of the Georgian Dream ruling party and the former prime minister, billionaire Bidzina Ivanishvili, had business interests in BitFury, and his co-investment fund lent money to the company when it first arrived in Georgia.¹¹⁵ The allegations also state that Georgia provided land, cheap electricity and a tax-free zone to BitFury to help the company set up a bitcoin mining centre in Tbilisi.¹¹⁶ However, BitFury denied those allegations.¹¹⁷ With Georgia's bitcoin mining industry

¹⁰⁹ NAPR, <https://naprweb.reestri.gov.ge/#/blockchain>

¹¹⁰ CoinDesk, Republic of Georgia to Develop Blockchain Land Registry, 22 April 2016, <https://www.coindesk.com/tech/2016/04/22/republic-of-georgia-to-develop-blockchain-land-registry/>

¹¹¹ CoinTelegraph, Georgia Records 100,000 Land Titles on Bitcoin Blockchain: BitFury, 20 April 2017, <https://cointelegraph.com/news/georgia-records-100000-land-titles-on-bitcoin-blockchain-bitfury>

¹¹² U4 Anti-Corruption Resource Centre, Blockchain as an Anticorruption Tool: Case Examples and Introduction to the Technology, 2020, <https://www.u4.no/publications/are-blockchain-technologies-efficient-in-combatting-corruption.pdf>; Stanford Social Innovation Review, Will Blockchain Disrupt Government Corruption? 5 March 2018, https://ssir.org/articles/entry/will_blockchain_disrupt_government_corruption#

¹¹³ Interview with the NAPR representative, 28 October 2021.

¹¹⁴ U4 Anti-Corruption Resource Centre, Blockchain as an Anticorruption Tool: Case Examples and Introduction to the Technology, pp. 4-5, 2020, <https://www.u4.no/publications/are-blockchain-technologies-efficient-in-combatting-corruption.pdf>

¹¹⁵ NPR, How The Tiny Nation Of Georgia Became A Bitcoin Behemoth, 23 April 2018, <https://www.npr.org/sections/parallels/2018/04/23/597780405/how-the-tiny-nation-of-georgia-became-a-bitcoin-behemoth>

¹¹⁶ New York Times, Despite Bitcoin's Dive, a Former Soviet Republic Is Still Betting Big on It, 22 January 2019, <https://www.nytimes.com/2019/01/22/business/georgia-bitcoin-blockchain-bitfury.html>

¹¹⁷ Georgia Today, Bitcoin Center in Georgia Denies Links with Ex-PM Ivanishvili, 15 January 2018, <http://gtarchive.georgiatoday.ge/news/8765/Bitcoin-Center-in-Georgia-Denies-Links-with-Ex-PM-Ivanishvili>

on hold at the moment due to an increase in electricity prices,¹¹⁸ it is unlikely that BitFury would continue providing the NAPR with a blockchain service, which is consuming high power, for free. At the same time, using blockchain technology in public service does not fall within the priorities of external international donors aid, and therefore it is highly unlikely that these donors would agree to provide financing for individual registry services of property owners.¹¹⁹

Opportunities to accelerate commitment implementation

The NAPR has two opportunities to address the aforementioned challenge. One is to proactively reach out to other companies that could be interested in financing the blockchain service for property owners as part of their corporate social responsibility. Another is to give the owners themselves a choice to pay for this service if they want additional protection for their property data.¹²⁰

Recommendations

In the context of the government's anti-corruption commitments stemming from its participation in global platforms such as the IACC, the NAPR should avoid making commitments that have only a minor impact on the fight against corruption. Before making a new commitment, the NAPR should conduct a thorough needs assessment and a cost-benefit analysis to make sure that the commitment is based on real public needs and that its benefits outweigh the costs required.

To ensure the sustainability of this specific commitment, the NAPR should explain proactively to property owners how the blockchain technology works and what specific benefits it could bring to them. This would give the owners an informed choice of whether it is worth for them to pay for an additional service while registering a property. At the same time, if the government believes that the blockchain technology is useful for public service, it should provide funding for this technology through its own resources, given this does not fall into standard donor priorities.

¹¹⁸ EurasiaNet, Have Georgia's Crypto Glory Days Passed? 26 November 2021, <https://eurasianet.org/have-georgias-crypto-glory-days-passed>

¹¹⁹ Interview with legal expert at the German Society for International Cooperation, 4 November 2021.

¹²⁰ Interview with legal expert at the German Society for International Cooperation, November 4, 2021.

RECOMMENDATIONS

The implementation of anti-corruption commitments has stagnated in Georgia over the past few years. This can be attributed to the disproportionate control of the ruling party over key state institutions, which is warning sign of state capture.¹²¹ The government leadership should demonstrate its strong political will and resoluteness to address this setback by developing a robust system of checks and balances with politically neutral investigative bodies and a judiciary committed to fighting high-level corruption. Applying the key recommendations provided below would help in this direction:

1. To inform relevant stakeholders and the general public about its strategic policy vision on good governance, the government of Georgia should expedite the development of its 2022–2023 National Anti-Corruption Strategy and Action Plan as well as a new OGP Action Plan for the same period. These documents should provide updates on how the government is committed to continue the implementation of existing anti-corruption reforms and adequately assess the main anti-corruption challenges facing the country and present new priorities and actions, such as the establishment of an independent anti-corruption agency to combat high-level corruption and a beneficial ownership registry. The inclusive multi-stakeholder meetings and public consultations accompanying the development of the aforementioned policies should also be renewed.
2. The government should restart important anti-corruption reform platforms, such as the OGP Interagency Coordination Council and the National Anti-Corruption Council and use these platforms to their full potential. A special focus should be placed on establishing the tool for CSOs' meaningful participation within the Anti-Corruption Council.
3. The government should expedite the adoption of the existing draft FoI law prepared in 2014 through active consultations with civil society and make necessary adjustments to the draft to improve the FoI legislative and institutional framework based on international standards. Designing and implementing universal standards for the proactive disclosure in open data formats and introducing an independent oversight and enforcement mechanism should be a priority.
4. All key government agencies, especially those directly tasked with the fight against corruption (for example, the chief prosecutor's office, state security service, Ministry of Internal Affairs, Ministry of Defence) should carry out corruption risk assessments and develop and implement integrity strategies/action plans as a commitment in the national anti-corruption and OGP action plans. The Administration of Government should take the lead in facilitating this process and ensure strong coordination and collaboration between relevant agencies.
5. The State Procurement Agency should grant full access to all public procurement data in an open data format. The agency should also proactively and continuously reach out to the Open Contracting Partnership, other international donors and local CSOs to continue the implementation of the principles of the Open Contracting Data Standard.
6. The government should make use of the vast expertise and resources offered proactively by international donor agencies and local CSOs and consider their recommendations in the implementation of its anti-corruption commitments. At the same time, the government should develop ownership of those commitments and take the lead in the commitment design and implementation processes. The government should further develop commitments that are specific, measurable, timebound and ambitious. Civil society consultations will support the government in determining how to fulfil these criteria. It is

¹²¹ Transparency International Georgia, *Is Georgia a Captured State?* 11 December 2020, <https://transparency.ge/en/blog/georgia-captured-state>

equally important to develop a wide-ranging public awareness campaign about the values and benefits of each commitment.

7. The government should strive for ambitious reforms to address the key corruption challenges related to high-level corruption and the politicisation of the prosecution and the judiciary in the country, as evidenced by numerous reports referenced in this assessment.
8. Based on the country context analysis above, the government's new anti-corruption commitments should focus on countering high-level corruption by establishing an independent anti-corruption agency with robust oversight and enforcement mechanisms and by explicitly addressing this problem in key anti-corruption documents. Specific major commitments should include the following:
 - a) improving the existing mechanism for whistleblower protection by identifying a responsible institution that will develop standards for whistleblower reporting, coordinate the implementation of these standards in public institutions, provide consultations, gather statistics, raise awareness and follow-up on whistleblower report investigations
 - b) improving the conflict of interest legislation and mechanisms for preventing it by identifying a responsible body that will respond to cases, provide consultations, set standards and specific rules on how to avoid and resolve conflicts of interest
 - c) publishing information about the shareholders of joint stock companies and beneficial owners of legal entities
 - d) publishing a complete information and database on the privatisation of state property, public tenders (including information on subcontractors) and assets of public officials in an open data format
 - e) further improving the system of verification of the public officials' asset declarations by focusing on the identification of possible cases of corruption, illicit enrichment, conflict of interest, incompatibility and "revolving doors", and by improving the rules for the selection of the members of the independent commission responsible for selecting the declarations for verification.

In addition to the recommendations outlined above, it is also important that international donors assisting the government of Georgia in various policy areas and in the fight against corruption include a conditionality clause in their partnership agreements with the government. This clause should envisage the suspension of general assistance if the responsible agency fails to implement an important anti-corruption commitment despite continuous external support and dedication. International donors should also make CSO engagement and the carrying out of public consultations a mandatory requirement for the development and implementation of anti-corruption commitments that are part of partnership agreements with the government. These changes would contribute significantly to addressing the corruption challenges that Georgia is currently facing.

ANNEX 1: LIST OF INTERVIEWEES

Persons interviewed during the commitment monitoring – online, October–November 2021

	Position	Organisation
1	Head of the public administration unit	Administration of the government
2	Acting head of policy planning unit	Administration of the government
3	Director of IT department	State procurement agency
4	Head of primary structural unit	Ministry of Finance
5	Acting head of project management and sales service	National Agency of Public Registry
6	Head of analytical department	National Agency of State Property
7	Deputy executive director	JSC Partnership Fund
8	Head of strategic development department	Ministry of Economy and Sustainable Development
9	Representative of Legal support division	LEPL: Technical and Construction Supervision Agency under the Ministry of Economy and Sustainable Development
10	Anti-corruption direction head, local government / internet and innovations directions head, analyst	Institute for Development of Freedom of Information
11	Project coordinator	Georgian Young Lawyers' Association
12	Legal expert	German Society for International Cooperation
13	IRM researcher	OGP Independent Reporting Mechanism
14	Representative	United States Agency for International Development, Georgia Office
15	Senior consultant in public financial management	Policy and Management Consulting Group
16	Nino Tsukhishvili, independent consultant	EU project Support to the Public Administration Reform in Georgia

