

**MONITORING OF THE FULFILLMENT
OF THE GEORGIAN NATIONAL AND
INTERNATIONAL ANTICORRUPTION
OBLIGATIONS**

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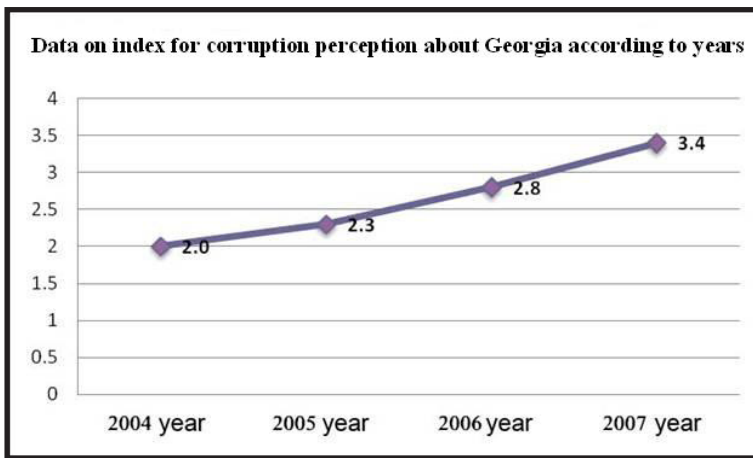
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INTRODUCTION

During its recent history Georgia deemed to be one of the most corruptive countries and was famous for its deplorable figures in the surveys done by various competent organizations.

Lately the country has undergone many anticorruption activities reflected in surveys of international and civil organizations.

Georgia has moved from the 133rd place (by 2.0 points) in 2004 to 79th place by 2007 according to the annual survey “Corruption Perceptions Index” done by the global civil organization “Transparency International”.



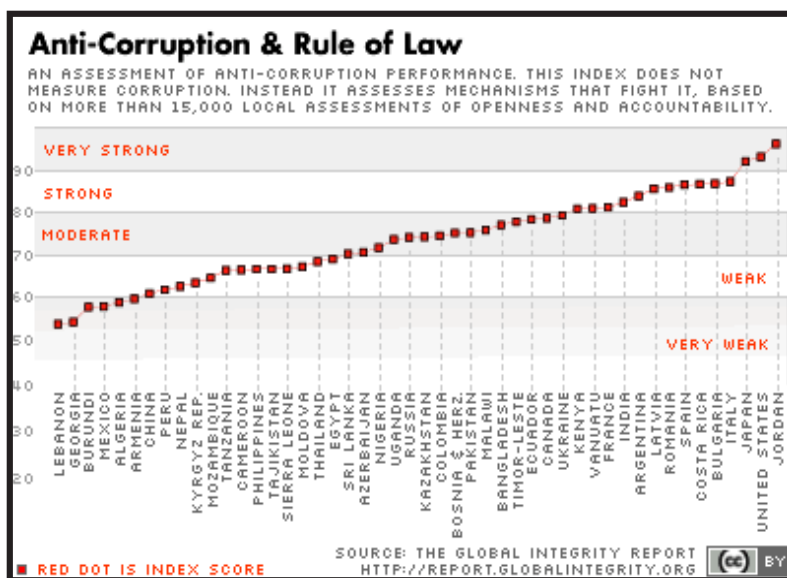
The success of Georgia is also mentioned in the research conducted by the “World Bank and European Bank for Reconstruction and Development”, where it is considered to be the best reformer¹.

Despite of the above-mentioned positive changes the problem of corruption is still relevant. Despite undergone reforms the country is still far from having public sector and rule of law free from corruption.

According to the above mentioned data of “Corruption Perceptions Index” implemented by the “Transparency International” in 2007, Georgia is still named after such countries, like: Ghana, Peru, Namibia, India and etc.

In the “Anticorruption and Rule of Law” category made by international organization “Global Integrity” (Independent Information on Governance and Corruption) in 2007 Georgia is estimated under 5.0 points – “very weak”; “Administration and Public Service” category – 5.0 points – “very weak”; authority accountability category is also estimated by 5.0 points – “very weak”.

¹ BEEPS – Business Environment and Enterprise Performance Survey; See: info.worldbank.org/governance/beeps



According to the evaluation of international organizations in parallel with positive changes, the legislation and practice for combating corruption in Georgia is not yet conformed to the internationally recognized standards.

In order to combat corruption, international organizations GRECO² and OECD³ have provided detailed evaluation of corruption in Georgia, and have created equivalent recommendations⁴ for combating it.

In addition, under the decree # 550 of the President of Georgia, dated with June 24, 2005, the National Anticorruption Strategy of Georgia has been approved and the Action Plan⁵ was elaborated for implementing it. With the help of these documents, the Georgian government has outlined the essential tasks fulfillment of which is of significant importance for combating corruption according to the international standards.

Major trends of anticorruption strategy:

1. Public sector being effective and free from corruption;
2. Competitive private sector free from corruption;
3. Amelioration and control of justice and law-enforcement system action;
4. Improvement of legislation in respect to anticorruption.

² Group of States against Corruption http://www.coe.int/t/dg1/Greco/Default_en.asp

³ Organization for Economic Co-Operation and Development www.oecd.org

⁴ GRECO at 31st plenary meeting (Strasbourg, 2006) approved "Second Evaluation Round"

OECD at 6th monitoring meeting (Istanbul, December 13, 2006) approved renewed evaluation of National Execution Activities of Georgia.

⁵ Decree # 363 approved in July 2, 2007 by President of Georgia <http://government.gov.ge/docs/sxvadasxva/j-edited.pdf>

Irreversibility in combating corruption is quite an important matter for development of a country. Thus, according to our opinion, it is necessary to control the obligations undertaken by the government and estimate conformity to internationally recognized standards in this field.

Forthcoming report presents the results of monitoring on the performance of domestic and international obligations for combating corruption and discusses evaluation of recommendations of international organizations and national anticorruption obligations, namely:

- Recommendations elaborated by GRECO (Group of States against Corruption) in the frames of the Second Evaluation Round;
- Recommendations elaborated by OECD (Organization for Economic Cooperation and Development) in regards to Georgia;
- Implementation of the National Anticorruption Strategy of Georgia and its Action Plan.

NATIONAL ANTICORRUPTION POLICY, INSTITUTIONS AND ENFORCEMENT

The first recommendation of OECD implies to the general overview of anticorruption policy in the country. In order to participate in this procedure, according to the recommendation, civil society and all participants are to be mobilized, and attention is to be focused on the execution of activities.

Also it is quite essential to look through the current anticorruption legislation.

According to the recommendation, anticorruption policy is to be implemented in the most transparent way based on the principle of participation, reflecting the current problems and being correspondent to the main goals of the reform.

On April 13, 2001 under presidential decree # 131 was founded Anticorruption Policy Coordination Council in Georgia composing of various branches of authority, experts, representatives of society and nongovernmental organizations. According to the internal regulations of the council, its members could be only: "persons with irreproachable reputation carrying great authority and trust among broad society". The main purpose of the Council was to elaborate the Action Plan for national anticorruption activities.

The second recommendation of OECD considered strengthening of the given council:

"Strengthening of the Anti-corruption Coordination Council, which should consist of persons with high moral and ethical standing, including representatives of the general public and from relevant executive bodies (administrative, financial, law enforcement, prosecution) as well as from the

Parliament and civil society (e.g. NGOs, academia, respected professionals).”

Despite of above mentioned recommendation, the president of Georgia has annulled the Anticorruption Policy Coordination Council. The State minister of Georgia in charge of reforms issues was ordered to coordinate fulfillment of the Action Plan for implementing the National Anticorruption Strategy of Georgia being approved by the Presidential decree on March 28, 2006.

On March 8, 2008 under the decree of government⁶, the machinery of state minister on reforms was annulled.

On April 3, 2008 the Georgian Young Lawyers' Association addresses the state chancellery with a statement asking to notify whether which body performed the role of controlling over the implementation of after annulling the machinery.

In response to the mentioned issue State Chancellery noted the following:

“As for determining the authorized agency coordinating implementation of the Action Plan after annulling the office of the state minister, there has not been made nay changes to the corresponding legal acts of Georgia in respect to it.”⁷

Thus, the function of monitoring Anticorruption Action Plan has not been transferred to any other bodies by now. Consequently, at present there is no any governmental body in the country controlling implementation of the Anticorruption Strategy Action Plan.

Moreover, GYLA got also interested in whether the public agencies will present reports on progress of the Action Plan accomplishment to the government.

According to the paragraph 7.2.3 of the National Anticorruption Strategy, once in every 6 months, government prepares and presents report to president about accomplishment of the National Anticorruption Strategy Implementation Action Plan, but the Prime Minister will receive the same report once in every 2 months. According to the decree # 155, paragraph 3-4, approved by the President of Georgia in March 28, 2006, in every 3 months ministries will present reports to government on accomplishment of interdepartmental Action Plans, but the General Prosecutor's Office and the High Council of Justice in every 2 months will submit report on accomplishment interdepartmental Action Plans.

According to the report of the Georgian government about the progress in implementation of the Action Plan, dated with March 2007, paragraph 7.1.:

“According to the Georgian National Anticorruption Action Plan, interdepartmental Anti-corruption Action Plan is elaborated and approved in every ministry.

Under above mentioned information the paragraph may be considered accomplished”.

⁶ Order #91 approved by Government in March 8, 2008

⁷ Letter #25/91 approved by State Chancellery of Georgia in April 11, 2008

The Georgian Young Lawyers' Association under corresponding statement⁸ requested to be provided with copies of all the aforementioned reports presented to the government, but only two reports⁹ **on the progress of National Anticorruption Strategy Implementation Action Plan prepared by our government** appeared to be at the state chancellery of Georgia. As for the interdepartmental reports of ministries, the State Chancellery of Georgia was not able to present them. Thus, anticorruption activities conducted by the ministries remain obscure for us and it is interesting whether they are at all effective.

OECD Recommendation # 3 – Establish a Specialized Anti-corruption Agency with a mandate to detect, investigate and prosecute corruption offences, including those committed by high officials. Such an agency could be structurally linked to the Anti-Corruption Bureau or to the General Prosecutor's Office, but should be given adequate independence in both cases. It is important that the Agency could combine law enforcement/investigative and prevention departments and be headed by the person with the analogous power as of General Prosecutor. Apart from working on actual high official corruption cases, one of the main tasks of such an Agency must be to enhance inter-agency cooperation between a number of law enforcement, security and financial control bodies in corruption investigations (e.g. by adopting clear guidelines for reporting and exchange of information, introducing a team-work approach in complex investigations).

The United Nations "Convention against Corruption" also foresees obligation for all participating countries to have independent bodies combating corruption. According to the 6th Article (body or bodies for resistance and prevention of corruption) of convention:

"1. Each participating states, according to their fundamental principles of the legal system in the country assures existence of such a body or bodies conducting anticorruption activities. The activities are:

- Adoption of policy under Article 5 of the given convention; also in certain cases, supervision on adoption such policy and coordination.
- Raising awareness and expanding knowledge on avoiding corruption.

2. Each participating country provides necessary independence to a body or bodies mentioned in the first paragraph of the given article, according to the fundamental principles of legal system in the country, in order to make this body or bodies able to work more effectively free from any irrespective influence. Therefore, they must have necessary material resources and specialized staff, which will have corresponding trainings for performing their duties".

⁸ Statement #g-04/111.08 on public information announcement, dating April 3, 2008

⁹ See <http://government.gov.ge/mtavroba1178104269.php>

Hence, consistent with UN Convention and OECD recommendation, it is considered to establish the body in charge of corruption prevention activities and adequate independence should be guaranteed for it.

Establishment of the aforementioned body is recommended by the “American Bar Association” and “Central European and Eurasian Law Initiative”:

“a) Regulations considered in Article 6 of the convention, are not accomplished, as currently Georgia has no any independent body preventing corruption;

b) It is necessary to be formed independent body implementing preventive and efficient measures against corruption, accountable towards parliament. This body may be formed as public law legal entity”.

Anticorruption Policy Coordination Council was formed under presidential decree on April 13, 2001, aiming implementation of the National Anticorruption Action Plan and its coordination. As stated above, recommendation of OECD considered intensification of the given council and support to its activities. But the council formed under presidential decree stopped functioning and from 2005 the State Minister on reforms’ coordination issues used to control performance of the Action Plan on National Anticorruption Strategy in Georgia. However, on March 7, 2008 this position was also abolished. Herein, the above mentioned body was not considered to be in charge of corruption prevention issues, it was only entitled to control the Action Plan performance.

The 2006 report on performance of Anticorruption Action Plan says the following, in regard to establishment of anticorruption body: “Due to the reorganization of Investigative Department of General Prosecutor’s Office of Georgia and other structural units there has been formed a mechanism for the revealing of corruptive activities of high officials. Due to the reforms to be implemented in legislation, jurisdiction of Prosecutor’s Office covers only certain categories of cases, such as: corruption transgressions, money laundering and transgressions committed by so called special subjects. That is why, in order to introduce such changes in practice there has been fulfilled the reform of Investigation Department and founded United Centralized System under nine regional representatives directly led by the Deputy General Prosecutor of Georgia”.

Authority of General Prosecutor’s Office of Georgia, Investigation Unit (Department) is defined under the regulation of General Prosecutor’s Office of Georgia and directly by the regulation¹⁰ of General Prosecutor’s Office, Investigation Department. According to the above mentioned regulation “**Investigation Department of General Prosecutor’s Office is a structural element of General Prosecutor’s Office under department’s status**” – General Prosecutor’s Office is formed by many such departments in conformity with its activities as established for another departments. Its activity “is undertaken

¹⁰ Decree # 27 of General Prosecutor of Georgia, approved in November 4, 2005

under the coordination principle with other structural elements of General Prosecutor's Office", thus, this department is not formed by any particular degree of independence and is not entitled in accordance to international standards and freedom of action. Besides, it does not involve coordination of anticorruption activity. So, it may not be supposed as coordination department of state anticorruption activity.

The very position is found in the second additional recommendation of OECD, saying: **"The establishment of the special anti-corruption division in the Prosecution is related to the January recommendation 3 concerning the establishment of a specialized anti-corruption agency. At this early stage the recommendation 3 can be reiterated to encourage further efforts ensuring proper independence of such a body, its mandate for law-enforcement and prosecution, and its role of coordinating various law-enforcement, security and financial control bodies"**.

So, neither Investigation Department of General Prosecutor's Office nor United Nations Convention "Against Corruption" meets recommended requirements of independence and coordination and to our minds it is not to be considered as independent department for corruption prevention being against corruption.

In October 4, 2007 at governmental meeting President of Georgia declared foundation of independent anticorruption initiative. Under the given letter¹¹, Georgian Young Lawyers' Association accepted above mentioned letter wishing to participate in it, though presidential initiative was not practically carried out – above mentioned anticorruption body is not yet founded.

According above stated issues, it is supposed that Georgia lacks special body combating against corruption. So, not the given recommendation may be supposed accomplished one.

OECD recommendation # 4 – Adopt guidelines for increased cooperation, exchange of information and resources between the agencies responsible for the fight against organized crime and those agencies responsible for the fight against corruption.

Recommendation of GRECO Second Evaluation Round meets the issues on raising qualification, under that:

- I. To be provided implementation of manual principles and holding effective trainings in order to improve capability of tax department staff for the exposition of corruption crime, especially related to concealment of bribes versus legal expenses.;
- II. To be provided establishment of state principles and holding detailed train-

¹¹ See address on Georgian Young lawyers' Association's website <http://gyla.ge/?display=news&view=588>

ings paying special attention to financial investigation for those state officials (law-enforcement officials and public prosecutors asking application of new law about confiscation.

According to the account on implementation Anticorruption Action Plan, paragraph 6.3, dating by the year of 2007, trainings will be delivered for Public Prosecutor's Office officials only on explanation regulation of certain code of ethics. "Code of Ethics for Public Prosecutor's Office officials"¹² regulates such domestic activities of Public Prosecutor's Office officials, like: relations with media, issues on conflict of interests, moral standards and etc.

In respect to the issues foreseen under recommendation, as: introduction of manuals for the improvement of cooperation and exchange information among entitled departments against corruption and organized crime; implementation of manuals and organization of trainings for the improvement of capability of tax department staff; implementation of manual principles and organization of trainings for law-enforcement bodies' staff; there is not found any issue in anticorruption Action Plan accomplishment account in respect to aforesaid issues, so, it is to be supposed that the given recommendations are not yet fulfilled.

LEGISLATION AND CRIMINALIZATION OF CORRUPTION AND THE RELATED MONEY LAUNDERING OFFENCE

While estimating fight against corruption in Georgia, international organizations are paying special attention to legislative deficiencies. Many normative problems are underlined in OECD and GRECO evaluating reports. Legislation related to the fight against corruption in Georgia does not ensure the necessary activities for overcoming corruption, the controlling mechanisms are especially to lead special activities in order to overcome corruption and control mechanisms are particularly poor.

The fifth recommendation of OECD says that Georgian legislation should be in conformity with international acts, among them: the European Council criminal law convention on corruption, United Nations Convention against Corruption and economic cooperation and development organization "against bribery of foreign public officials in international business operations" convention regulations. Aforesaid recommendation considers reviewing of the present system for disciplinary, administrative and criminal violations, eradication of deficiencies between the criminal code and related legislative acts, also criminalization of bribery and other related violations and conformity with international standards, adoption of responsibilities for legal persons and other important issues.

¹² Approved under Order # 5 of General Prosecutor of Georgia, dating June 19, 2006

Besides recommendations elaborated by OECD, additional recommendations considered in the second round report of GRECO evaluation and the national anti-corruption Action Plan do also concern improvement of anticorruption legislation.

OECD recommendation # 6 – Criminalize active and passive bribery and consider it in the Criminal Code of Georgia in conformity with the international standards; define precisely the offence of passive bribery (Art. 339), and the offence of accepting prohibited presents (Art. 340); Increase the sentence for active bribery and limit corruption related violations.

International standards – including “Criminal Law Convention on Corruption” of European Council defines active and passive bribery between the types of bribery. Before amending the Criminal Code of Georgia on July 25, 2006, only active bribery was considered as criminal offence. As for passive bribery, it was not directly defined as punishable act under aforesaid Criminal Code, but it could be considered under “attempted crime” defined by Article 19 of the Criminal Code. Thus, passive bribery was not directly defined under Criminal Code as a punishable act.

According to the amendments adopted on July 25, 2006, the articles related to bribery were altered and regulations for criminal code came into the compliance with the international standards and both active and passive bribes were criminalized. After adopting the above-mentioned amendments, articles 338 and 339 of the Criminal law have been set as follows:

Article 338. Acceptance of Bribe

1. Acceptance of money, bonds, other property, property benefit or any other illegal advantages or request, also taking suggestion or promise in respect to the given issues by an official or a person being in similar position for his/her or other persons' benefit, in order this person or the others being in similar position were able to execute any actions for the benefit of other person or bribery while accomplishment office duties or to be abstained from dealing any actions or apply his/her office authority for the achievement similar objective and provide official patronage”.

The penalty for perpetrating aforesaid offences has been increased from minimum of five years up to detention within 6-9 years.

Article 339. Offering Bribe

1. Promise of money, bonds, other property, property benefit or any other illegal advantages, also taking suggestion or promise in respect to the given issues by official or person being in similar position for his/her or other persons' benefit, in order this person or the others being in similar position were able to execute any

actions for the benefit of other persons or bribery while accomplishment office duties or to be abstained from dealing any actions or apply his/her office authority for the achievement similar objective and provide official patronage”.

The penalty for perpetrating the above-mentioned offence has been increased from two years detention term to three.

Having taken into consideration active and passive bribery, the notion of “trading in influence” has been added to criminal code.

United Nations Convention against Corruption¹³ foresees necessity of resistance against “corruption influence”. Article 18 of the convention includes notification on establishment of liability for the influence of malicious actions or corruption applied by officials or other persons being in the same position like a separate article in criminal legislation approved by participating states. According to above mentioned article, the action found to be promised, offered or delivered personally to public legal entity or via mediator in order to have any illegal advantages is inevitable to be declared as intended offer. As mentioned, influence of corruption was specially considered as criminal offence under legislative amendments undertaken on July 25, 2006. 339¹ Article about “trading in influence” was added to criminal code involving the following:

“Promise, offer or delivery of money, bonds, other property, property benefit or any other illegal advantages for private or other person’s interests establishing or approving probability of illegal influence on an official or other person, in spite of the fact whether such influence was ended up in an achieved desirable result out of the given influence.

This offence is punishable by fine or disciplinary work with the period of two years or restriction of freedom under the same term or detention up to two year period.

OECD 6th recommendation together with distinguishing active and passive bribery foresees improvement of normative acts related to accepting illegal gifts and hardening level of responsibility. According to the adopted legislative amendments, level of responsibility has been hardened on accepting gifts by officials or other people being in similar position and additionally the sanction has been extended up to two year detention period. Though, the deficiencies related to accepting illegal gifts have not been made up totally.

Under the current legislation, disclosure of illegal acts like accepting gifts by officials or others being in similar position and monitoring on this kind of acts is actually excluded, as the law does not imply any mechanism administering acceptance of gifts. In the draft law prepared by the Georgian government “about conflict of interests and corruption in public office” presented to the Parliament of Georgia¹⁴ for discussion includes some inno-

¹³ Obligation of aforesaid convention ratification is foreseen under anticorruption strategy of Georgia.

¹⁴ Draft for the discussion was presented to parliament under order # 24 approved by Government of Georgia in January 17, 2008. It was planned to be discussed the draft at plenary meeting by February 12-15, though, the discussion procedure was closed at committee stage.

vations related to illegal gift, restriction on accepting illegal gifts is suggested not only for officials, but also for all public servants.

At the same time the concept of “gift” is modified and “possibility of influence” becomes the main point of its meaning. Having undertaken aforesaid changes, the regulations related to “gift” will come into compliance with the resolution #51/59¹⁵ of December 12, 1996 approved by the General Assembly of the United Nations and #R (2000) 10 recommendation¹⁶ of the Cabinet of Ministers of the European Council. According to the draft law:

1. “Gift” is property given or service provided free of charge or with preferential conditions to a public servant, people in relations with him/her, an official, his/her family member or/and person being in domestic economy, also releasing entirely or partially from property accountability that is considered to be an exception from a general rule.
2. Public official is banned to accept any kind of gift or service that may have an influence on fulfillment of official duties”.

Despite the positive tendencies included in the draft law, it is still impossible to eradicate difficulties related to an illegal act of accepting gifts. In this direction, nonexistence of domestic controlling mechanism is the major problem. Researches on the activities of General Inspection conducted by GYLA have shown many problems¹⁷ related to top state controlling mechanisms in the country. Legislation does not consider obligation of existence of effective domestic controlling mechanisms, therefore, there is no a united independent anticorruption body effectively supervising actions against corruption. In the current circumstances it is impossible to reveal facts on accepting gifts forbidden by law and make perpetrators responsible for those acts.

According to the above mentioned issues, the OECD recommendation is partly accomplished.

OECD recommendation # 7 – Ensure that the definition of “official” in the Criminal Code encompasses all public officials or persons performing official duties in all bodies of the executive, legislative and judicial branch of the State, including local self-government and officials representing the state interests in commercial joint ventures or on board of companies.

The definition of an “official” introduced under the international standards, including the

¹⁵ #51/59 resolution approved by United Nations General Assembly in December 12, 1996 “Action Against Corruption” and its appendix “International Code of Conduct of Public Officials”

¹⁶ #R (2000) 10 recommendation of the Cabinet of Ministers of the Council of Europe “About Code of Conduct of Public Officials” and its appendix “Model Code of Conduct of Public Officials”.

¹⁷ See, Government of Georgia under Sunshine – 7th edition, Georgian Young Lawyers’ Association, 2007.

definition considered in the United Nations' Convention "Against Corruption" is considered to be broader than the one under the Georgian legislation. According to the Article 2 of convention: "Public official shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public service, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party.

One of the problems discussed in the OECD recommendations is the existence of various definitions of the term "official" in different laws that can cause obstacles in some certain cases. Criminal code foresees the concept of "offence of an official", where the word official is similar to the "official" considered under Article 6 of the law "about public service". **According to this law, official is a "person appointed or elected on the position included in the staff of a treasury department".**

Under the article 5 of the law "about public service", public service is fulfilled by the following people:

- a. State Political Officials;
- b. Public servant;
- c. Supporting employee;
- d. Free-lance employee;

Thus, state-political official, supporting employee¹⁸ and free-lance employee¹⁹ differ from an official. So, regulations supposed under XXXIX chapter of criminal code (offence of official) are not for free-lance employees, also above mentioned regulations are not related to public legal entities, as public legal entities were not considered in the law about public service, which at the same time are administrative bodies under General Administrative Code. Also, the above mentioned regulations are not connected to industries and other administrative bodies (e.g. any person providing public judicial authority under the legislation) founded by partial participation of state. According to the amendments made to the Procedural Criminal Code of July 4, 2007, the list of people deemed under the concept of an "official" was extended. For the Criminal law purposes, officials, public officials, leaders of public legal entity and deputies, also the people entitled to administrative and representative functions from the enterprises with state's partial – 50% participation are considered under the 44th Article of code, clause 47.

¹⁸ Supporting employee is a technical staff appointed under labor contract at the post of supporting employee defined by office personnel.

¹⁹ Free-lance employee is a person appointed under appointment or labor contract for certain period for the execution temporary tasks.

Though the conflict of terms has occurred: on one hand, criminal code includes concept of a “public servant” that is quite narrow and on the other hand, the Procedural Criminal Code considers the concept of an “official”, which, besides officials, involves officers, leaders and deputies of public legal entities and also the people entitled to administrative and representative functions from the enterprises with state’s partial – 50% participation. Due to the bifurcation of the above mentioned term it remains obscure whether the term considered in the criminal law code should be equalized with the one considered in the procedural criminal law code, or in the first case the law foresees only short list of people.

Besides, for the criminal law purposes the concept of official does not include free-lance employees providing public services on the basis of contracts. Thus, some certain obscure issues and unfulfilled actions related to the concept of “official”, regardless undergone legislative changes, still remain actual/up to date. It may be said that the recommendation is not yet accomplished regarding this issue.

OECD recommendation # 8 – Introduce the criminalization of bribery of foreign or international public officials, either through expanding the definition of an “official” or by introducing separate criminal offences in the Criminal Code.

Criminal law convention of European Council and UN convention against corruption foresee such concept as “foreign country public official” so, “any aforesaid or chosen person holding any position in legislative, executive, administrative bodies or court and any person providing some public functions for other state, among them for public department or public company” and “public official for international organization”, so “international civil officer or any person, entitled to deal activities in the name of such organization.”

Criminal legislation of Georgia did not foresee capability of bribery for foreign and international countries’ officials, though under legislative amendments approved in July 25, 2006 conformable changes were not proposed in criminal code. Article 338 of the given code notes that for the purposes of 338th (acceptance of bribery), 339th (offering of bribery) and 339th ¹(influential trade) article, “person being in similar position with an official also considers foreign state officials (including members of state body representing executive, legislative or/and administrative authority), officials from international organization or body or any employee employed under contract, also any person whether being or not in business trip providing same functions as the given official or employee, a member of International Parliamentary Assembly, an official or a judge from an International Court and judicial body”.

According to the above stated, given OECD recommendation may be considered as fulfilled.

OECD recommendation # 9 and additional recommendation # 6 – Consider amending the Criminal Code to ensure that the confiscation of proceeds applies mandatory to all corruption and corruption-related offences. Ensure that the confiscation regime allowed for confiscation of proceeds of corruption, or property the value of which corresponds to that of such proceeds or monetary sanctions of comparable effect, and that confiscation from third persons is possible. Review the provisional measures to make the procedure for identification and seizure of proceeds from corruption in the criminal investigation and prosecution phases efficient and operational. Explore the possibilities to check and, if necessary, to seize unexplained wealth.

Monitor the newly established confiscation of proceeds regime and the confiscation of unexplained wealth and invest special attention that they are implemented in a non-discriminatory and non-arbitrary manner through proper checks and balances and safeguards.

The issues related to confiscation of property are also regulated with article 31 of “UN Convention against Corruption”.

The rules on explanation and confiscation of illegal and unexplained property were foreseen by VIII² chapter of Administrative Procedural Code of Georgia. In consequence of legislative amendments adopted in July 2007, the norms on unexplained and illegal property confiscation were moved from Administrative Procedural Code to Civil Procedural Code.

XLIV¹ chapter (considering activities and issues regarding racketeering property, an official, a member of “Thieves in Law”, human trafficking, assistance in distribution of drugs or confiscation and assignment of property to the state under criminal code of Georgia, article 194, 3rd part, “c” subparagraph) of Civil Procedural Code regulates the rules on confiscation of illegal or unexplained property, though the regulations foreseen under aforesaid chapter are considered only for “officers” meaning the people under the law “on incompatibility of interests and corruption in public office”, public officials, leaders of LEPL (legal entity of public law) or deputies, also any authorized person being in charge of or representing state enterprise (where 50% or more is owned by the state).

“Confiscation of property” is foreseen by criminal legislation of Georgia as a punishment²⁰ that may be applied as additional punishment towards any person. But the rules foreseen under Civil Procedural Code on confiscation of corrupted property may be applied only towards specific people somehow opposing OECD recommendation # 9, according to which “there may be applied confiscation of property in respect to all corruptible and related activities”.

²⁰ Criminal Code of Georgia, Article 40.

At the same time, National Anticorruption Action Plan of Georgia does not imply monitoring of property confiscation and obligation to assess the non-discriminatory or non-arbitrary application, as considered under the 6th supplementary recommendation. So, the recommendation can't be considered being accomplished in this part too.

OECD recommendation # 10 – Recognizing that the responsibility of legal persons for corruption offences is an international standard included in all international legal instruments on corruption, Georgia should, with the assistance of organizations that have experience in implementing the liability of legal persons (such as the OECD and the Council of Europe), consider how to introduce into its legal system efficient and effective liability of legal persons for corruption.

Necessity for the establishment of responsibility for legal persons is foreseen by recommendations elaborated within the frameworks of the second evaluation round of GRECO. XII recommendation considers:

- I. To amend the provisions on corporate liability in the Criminal Code to ensure that legal persons can be held liable in cases where lack of supervision or control by a natural person has made possible the commission of active bribery, money laundering or trading in influence and
- II. To provide appropriate training on criminal liability of legal persons to all officials concerned with a view to ensure the complete application of these provisions in cases of active bribery, trading in influence and money laundering.

On the basis of presented recommendations, legal entities' responsibility was introduced in criminal code, namely, - **“sixth¹ chapter - legal entities' criminal responsibility”**.

For the Criminal law purposes legal entities include for-profit and non-for-profit entities and their assignees.

Types of punishment for legal entities are²¹:

- a) Liquidation;
- b) Deprivation of right to action;
- c) Fine;
- d) Property seizure.

Aforesaid recommendation may be considered to be accomplished.

OECD recommendation # 11 – Adopt clear, simple and transparent rules for the lifting of immunity and limit the number of categories of persons benefiting from immunity (e.g. candidates for the Parliament) or the scope

²¹ Criminal Code, Article 107³

of immunity for some categories (e.g. judiciary) to ensure that it is restricted in applications to acts committed in the performance of official duties.

Some legislative amendments have taken place for the accomplishment of the mentioned recommendation. Article 52 of the Georgian Constitution was amended and it became possible to detain members of parliament while catching them red-handed, also other officials were restricted in application of their immunity.

According to these legislative amendments, recommender considers the mentioned recommendation actually accomplished.

OECD recommendation # 12 – Ensure effective international legal assistance in the investigation and prosecution of corruption cases.

According to the paragraph 5 of “National Anticorruption Strategy”, Georgian government is obliged to ratify international conventions, in particular: “UN Convention against Corruption” and “European Council Criminal Law Convention about Corruption” and the optional protocol.

Georgia became participatory country of the criminal law convention²², but has not yet ratified the “UN Convention against Corruption”. Also, as it can be seen from the presented evaluation, the Georgian legislation does not yet meet international standards in fight against corruption. Consequently, the above mentioned recommendation can not be considered to be completely accomplished.

The second recommendation of GRECO second round evaluation foresees reduction of 5000 GEL limit related to money laundering or annulling such a limit.

Action Plan, paragraph 4.4 on performance of anticorruption strategy of Georgia also considered abolishing 5000 limit for money laundering.

In December 2005, due to the amendments made in the criminal law code, the following note was added to article 194 (legalization of illegal income – money laundering):

“For the purposes of this law, income gained from crime committed in tax law, also income under 5 thousand GEL will not be considered for illegal income”.

So, according to the given article, legalization of illegal income up to 5000 GEL was not considered for money laundering. This limit was no considered as a proper one by international organizations and it was necessary to annul it or reduce considerably.

Due to the amendments made to the Criminal Law Code in July 25, 2006, the above mentioned limit was abolished, so recommendation may be considered accomplished.

²² Decree # 3956 of Parliament of Georgia, approved in December 14, 2006

TRANSPARENCY OF THE CIVIL SERVICE

OECD recommendation # 13 – Introduction of a system of merit-based appointment and promotion in the civil service is needed.

GRECO V recommendation is related to issues on appointment and promotion of public officials. The recommendations state:

“Implement uniform rules for the transparent, impartial recruitment and promotion of public servants and take measures to ensure their fair and impartial appraisal”.

Special attention is paid to the issues about recruitment and promotion of public officials in the UN Convention against Corruption. Mentioned issues deal with Article 7 of convention.

“Establishment of similar and transparent standards in order to improve conditions for the recruitment and promotion of public officials” is foreseen in paragraph 1.8 of the Anticorruption Strategy Action Plan.

Rules in the Georgian legislation for recruitment of public officials are regulated by law on “Public Service”. Regulations foreseen under the given law remain quite obscure. There is not a united standard defining general norm on recruitment in public service. Thus, recruitment and promotion of officials in any certain cases is actually provided under the basis of subjective decision.

According to the law on “Public Service” officials will be employed on certain positions via appointment or selection. Under article 29 recruitment of a person is considered to be done on the basis of competition. As a result of formulation of mentioned article it becomes obscure whether the competition in the process of recruitment is obligatory or voluntary. Also it is obscure whether consideration of the results of competition is necessary, or it is dependent on a subjective will.

The same obscure regulations are provided in relation to attestation. It is also obscure whether consideration of the results of competition is necessary, or it has only recommendatory power.

7.6. Paragraph of the Action Plan includes improvement and simplification of rules regarding employment in public office, elaboration of rules for professional evaluation, formation and constant updating of data for the purposes of staff management.

The report mentions: **The drafts of the presidential orders are prepared: “about approval of competition rules on holding public positions” and “about approval of attestation rules for public officials”.** Aforesaid drafts foresee improvement of recruitment in public service and evaluation of employees. The drafts are already presented to the administration of President of Georgia”.

The above mentioned orders were not approved by the President of Georgia. Deficiencies are still found in the regulative norms of competition and attestation for public officials.

Besides deficiencies related to the recruitment and promotion in public office, the issue on non-existence of job description of public officials remains actual. According to international standards, it is necessary to establish certain job description of employees and if possible it should be similar for all public institutions.

Paragraph 7.5 of the evaluation of the Action Plan performance foresees “implementation of clearly described and probably similar official descriptions in the institutions providing services”. In compliance with the report, “Public Office Bureau” prepared methodical materials “about the rule of composition, agreement and approval of the structure for describing various positions”, though the act is not adopted yet, thus the given rules do not even appear normative.

Having taken into consideration all aforesaid issues, it is not possible to admit discussed recommendations as fulfilled ones.

Conflict of Interests in Public Service and Codes of Conduct

OECD recommendation # 14 – Prepare, and widely disseminate, comprehensive and practical guidelines for public officials on corruption, conflicts of interest, ethical standards, sanctions and reporting of corruption. Consider elaborating specific Codes of Conduct for public officials and work on their dissemination.

Recommendations of GRECO second evaluation round also foresee implementation of standards and codes of conduct for public officials.

VIII recommendation:

To establish clear rules for all employees in the public sector on receiving gifts and actual and potential conflicts of interest, and to provide for an appropriate mechanism for the enforcement of these rules.

IX recommendation:

To take measures to have codes of conflict adopted for all employees in the public sector, both at local and state level, in order to clarify and complement the rules on inter alia conflicts of interests, gifts and reporting of corruption.

Obligation on elaborating codes of conduct for public official is foreseen even under the Action Plan of National Anticorruption Strategy; in particular, paragraphs 1.9; 1.10; 3.1; 3.14; 4.2 of Action Plan are related to the mentioned issues.

It is world widely established practice to elaborate codes of conduct for public officials.

International organizations have implemented the frame for codes of conduct, though in some countries these codes exist in various forms.

Codes of conduct admitted by international organizations are:

- ⇒ # 51/59 resolution approved by UN General Assembly on December 12, 1996 “Action Against Corruption” and its appendix “International Code of Conduct for Public Officials”;
- ⇒ # R (2000) 10 recommendation approved by Cabinet of Ministers of European Council “about code of conduct of public officials” and its appendix “Model Code of Conduct of Public Officials”.

Article 8, paragraph 3 of the UN Convention “Against Corruption” relates to the appendix of 51/59 resolution of General Assembly, stating: “Each participating state in certain cases and pursuant to its founding principles of judicial system foresees certain initiatives of regional interregional and multilateral organizations, for example: international code of conduct of state officials included in appendix of 51/59 resolution of General Assembly approved on December 12, 1996”.

Currently, codes of conduct are only performed pursuant to certain tendencies in Georgia, namely, code of ethics for the employees for Public Prosecutor’s Office and police and etc. In respect to general rules of conduct for all public officials, it is not considered in by the legislation.

Government of Georgia elaborated draft law²³ on “Conflict of Interests and Corruption in Public Service” stating rules of conduct for public officials.

V¹ chapter of draft law about “conflict of interests and corruption of public officials” relates to “**general rules of conduct for public servants**” – mentioned draft implies public officials of all state organizations, including local self-governance and organizations equalized with public bodies²⁴. According to the draft, by meeting general principles of conduct to some categories of public officials or/and some institutions under the given chapter there may be established additional regulative norms to the code of conduct.

Pursuant to the given draft law the scope of the law on “conflict of interests and corruption in public service” is noticeably growing, also the list of those persons and departments under the law is being increased, which is a positive change. However, some essential issues adopted by international organizations in the model codes of conduct are not found in draft law. For example:

²³ Draft law “about inconsistency of interests and corruption in public service” under protocol # 2 was approved by government of Georgia in January 17, 2008 and presented for discussions to parliament. Under protocol # 206 approved by Parliamentary Bureau in January 24, 2008 was launched discussion of mentioned draft law, though by now the procedure discontinues.

²⁴ Equalized institutions to state bodies for the accomplishment objectives of given law are: Independent National Regulatory Commission; Nonproductive and public legal entities, under law and industry that authorized capital stock and yearly flow or assets are composed of million GEL or more with its 50% share of state.

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- Rules of treatment of citizens – public employee has to be honest and polite with citizens;
 - Simplification of bureaucratic mechanism – within the frames of legislation, public official has to attempt simplify the procedures as much as possible in respect to better providing services;
 - Political and social activity – article 16 of model code of conduct approved by the Cabinet of Ministers of European Union establishes prohibition for public officials on application his/her position for achieving partisan political objectives.

Draft law does not include the mentioned or other regulations.

Besides, the major gap in the draft law is administration and control on its implementation since the adoption of the given norms. As there is no a mechanism established under domestic control law in Georgia, it is impossible realize those norms in practice and control on its performance.

Parliament of Georgia has not applied a new law on “conflict of interests and corruption in public service” yet. Thus, official’s rules of conduct have no obligatory force too. Moreover, there have not even been implemented practical manuals of report on corruption, conflict of interests and ethic standards for public officials recommended by OECD.

Hence, the above mentioned recommendation is not yet accomplished.

OECD recommendation # 15 – Strengthen the Public Service Bureau to improve the observance of legal requirements in the civil service at large. Provided that the Public Service Bureau is strongly committed to upholding professional and legal standards in the civil service, it should be vested with powers to enforce legislation, in particular with the help of disciplinary actions.

Presented recommendation foresees increase of power of public legal entity “Public Service Bureau”, as defined in article 129 of the law on public service, on monitoring of enforcement of law. According to the recommendation the bureau is to be provided with the power of imposing disciplinary punishments.

Pursuant to the law on “Public Service”, article 130, the main power of public service bureau is the study of the current situation in the field of public service and provision of proper information to the council of public service.

Pursuant to the law on “Public Service”, Article 128, paragraph 2 “The Public Service Council is established under the President of Georgia for elaborating a united state policy in public service, coordinating the activities related with public service and for the purposes of preparing various decisions related to the issues considered by the law about public service”.

Council of public service is deliberative body for the President of Georgia, composed of 3-3 members representing legislative, executive, judicial authorities, local self-governance and is led by the President of Georgia.

According to the regulations²⁵ of the council, it is entitled to present recommendations and decisions to president about human resource management in public service, also make up conclusions on the normative acts related to public service, sustain transparency and etc.

So, aiming at coordination of united actions and human resources management in public service, the following two departments are established: they are LEPL “Public Service Bureau” and LEPL “Council of Public Service”. The major role of “Public Service Bureau” is to support of “Council of Public Service” and provide the Council with necessary information.

After studying the current situation, the experts of OECD considered that it was necessary to establish more coordinated and effective attitude towards the management of human resources in the field of public service in Georgia. Pursuant to recommendations, it is essential for bureau of public service to study the issue on performance of statutory requirements in the field of public service; Coordinate the issue on human resource management in public institutions. Also, according to the recommendation it is necessary to promote “Public Service Bureau” and give power of monitoring the process of enforcing the law (mainly via application of disciplinary punishments).

Activities corresponding to this recommendation have been accomplished neither towards “Public Service Bureau” nor in regards to “Council of Public Service”. The powers of the mentioned departments cover just study of the current situation in public service, but as for the response on infringements, council and bureau have no such functions. As for responding to violations, such kind of power is not given to these bodies; thus, the recommendation is not fulfilled.

OECD recommendation # 16 –Ensure a more effective enforcement of the Law on Conflict of Interest and Corruption. Consider strengthening the existing institution that monitors its implementation and provide the institution with the authority to verify the accuracy of submitted asset declarations. All asset declarations have to be available to the public.

There is no department in Georgia being able to effectively reveal and provide monitoring of conflict of interests and corruption in public service. Legislation does not enable some departments to analyze property declarations and respond to infringements.

²⁵ Decree #473 “on approval regulation for the council of public service” approved by President of Georgia in October 29, 2004.

According to the law on “Conflict of Interests and Corruption in Public Service”, article 18, public legal entity controls acceptance of official’s declarations on publicity and timely delivery of declarations on material and financial issue of a certain official.

Controlled by public legal entity “informational bureau of material and financial standards of officials” – Duties of mentioned bureau are:

- a) Elaboration of instructions for filling in the declarations accurately;
- b) Receipt of declaration of officials without any obstacles;
- c) Receipt and keeping of unfilled declarations;
- d) Publicity of the content of declarations;
- e) Composition of official registry of those officials who are obliged to fill the declarations in.
- f) Performance of other functions foreseen under law.

The list of bureau’s functions also clearly represents its major function on receipt and keeping filled declarations by officials. As for handling gained information, revealing infringements and responding to mentioned infringements, the bureau is not entitled to deal with such actions.

Under OECD recommendation it is ineffective for bureau to have such limited functions. It is essential for this kind of body to be entitled to the power of evaluating the received declarations and responding to violations.

Draft law,²⁶ developed by the government of Georgia on “Conflict of Interests and Corruption” implied considerable growth of functions of “Material and Financial Standards’ Informational Bureau for Officials”. Pursuant to the draft law, the following functions of bureau are added to current ones:

- ⇒ Elaborating draft laws for improvement of declaring procedures;
- ⇒ Taking judiciary measures on infringements under its competence;
- ⇒ Controlling on timely submission of declarations, disclosing the cases on conflicts of interests and responding to them;
- ⇒ Discussing the written statements of legal and physical persons;
- ⇒ Specifying declaratory data and requesting information for conducting analysis;
- ⇒ On the basis of analysing declaratory data, providing the higher body with information regarding corruption infringements and incompatibility of interests, also norms on avoidance and self-avoidance;
- ⇒ Providing an official with a copy of the previous declaration one month earlier before originating of the obligation for submitting the documents;
- ⇒ Others.

²⁶ was introduced to the parliament of Georgia on January 18, 2008, now the procedure discontinues

Besides, the chairman of the bureau was entitled to impose a fine in certain cases under the legislation.

Regardless of the existence of the given draft law, government presented to parliament draft law on January 18, 2008 for making amendments to the law “about conflict of interests and corruption in public service”. The draft law did not consider any changes regarding the Bureau. It means that its functions and norms of activity remain the same. Thus, even if Parliament of Georgia adopts the draft law on “Conflict of Interests and Corruption in Public Service”, the above mentioned problem will still remain unresolved.

As for directly material and financial declarations, ORCD report says that **declarations are quite complicated and the existing institutional conditions are not enough for proper execution of powers.**

Changing rules regarding the submission of declarations is considered in the draft law on “Conflict of Interests and Corruption in Public Service” that is not yet adopted. And, consequently, even this part of recommendation is not accomplished.

OECD recommendation # 17 – Adopt measures for the protection of employees in State institutions against disciplinary action and harassment when they report suspicious practices within the institutions to law enforcement authorities or prosecutors, and launch an internal campaign to raise awareness of those measures among civil servants; adopt (basic) regulations on the protection of “whistleblowers”.

The obligation of reporting about corruption and necessity of protection of whistleblowers is considered by the tenth recommendation of GRECO:

To obligation of public officials of notifying administration about corruption; also, to ensure protection of whistleblowers.

Aforesaid obligation is also foreseen under Action Plan, paragraph 3.14. The plan considers:

1. Increasing obligation of public officials for notifying corruption; increasing protection measures of such officials.
2. Improving/implementing the system for protecting whistleblowers according to international standards.

Pursuant to the recommendation of European Council if official is informed about other official’s infringement of rules of conduct he/she is entitled to inform it to a proper department. If official providing information on infringement to proper department is not responded then he/she is entitled to provide a written letter to the higher department official, and also apply other mechanisms granted under the given legislation.

The above mentioned obligation for notifying is included in the draft law for amending the law on “Conflict of Interests and Corruption in Public Service”. According to the draft law:

“Public official is obliged:

- a) To disclose any statements or grounded doubts on illegal or probable criminal or existed actions to the higher officials;
- b) After receiving information, a higher official is obliged to take measures shortly and if necessary notify law-enforcement bodies;
- c) If a public official has no higher official and he/she has implemented the action considered by paragraph “a” and nobody has responded on this action, the official is obliged to address law-enforcement body”.

Together with the obligation of notification, the draft law considers obligation for protecting whistleblowers:

“In order to avoid the physical and moral influence on whistleblowers, the higher official of public body is obliged:

- a) Not to disclose the identification information of a whistleblower or other persons related to him/her;
- b) Not let their reputations be ruined;
- c) Protect whistleblower in order not to worsen his/her working conditions or limit his authorities.

As for the issue of protecting witnesses in the filed of criminal law, it is considered under Action Plan, 3.3 paragraph “improvement/implementation of protection system for witnesses”.

Legislative frame for the regulation of witness protection is included in Criminal Procedural Code, XIV¹ chapter (special activities for protecting the parties criminal law proceedings), though some certain issues such as: budget, functions and competence of the body in charge of protecting witnesses is not yet regulated.

According to the 2007 report of Anticorruption Action Plan, paragraph 5.6, there has been elaborated the draft law on “freedom and protection of whistleblowers” that is to completely regulate the issues for the protection witnesses.

Nowadays the mentioned draft law is not yet adopted, also there are not implemented the rules for the protection of whistleblowers in public service. Thus, the recommendation will not be considered accomplished.

State Control – Mechanisms for Internal and External Control

The fourth recommendation of GRECO Second Evaluation Round deals with the problems of public sector audit.

The recommendation determines:

1. United standards and methodology must be implemented for public sector audit, taking into consideration features of various components consistent to this sphere;
2. Increase the power of local government audit;
3. Ensure the effective auditing of state enterprises.

Anticorruption Action Plan also foresees improvement of state control at central level, it means that the plan includes only the issues of external audit – issues related to the reforms of the Chamber of Control. As for the mechanisms for domestic control, so called General Inspections, they are totally dropped out from the Action Plan according to the amendments²⁷ adopted on July 2, 2007.

Currently there are found many deficiencies in the mechanisms of state control. It does not meet international standards being ineffective and is not able to perform obligations of control guaranteed by the constitution.

The evaluation²⁸ of activities implemented by the chamber of control conducted by the Georgian Young Lawyers' Association revealed that on the basis of amendments adopted recently, the authority of the Chamber of Control have been considerably limited that has caused additional difficulties.

As a result of undergone amendments, the Chamber of Control:

- Is not capable to fulfill the obligations set by the constitution - control of activities for financial controlling bodies;
- Controlling function of local self-government bodies has been minimized;
- Its role remains obscure in controlling public legal entities;
- Lost function of controlling the enterprises established by state's partial participation;
- Is not able to provide financial-economic activities to other controlling bodies;
- Provides ineffective evaluation and expert conclusions of legislative issues;
- Activity planning remains problematic, that often results in illegal checkups or on the contrary, Chamber of Control is unable to check those institutions obligation of controlling of which falls under chamber's power;
- Even the mechanism of inspection for the Chamber of Control by the Parliament of Georgia is ineffective;

²⁷ Decree # 363 approved by President in July 2, 2007

²⁸ In 2007, Georgian Young Lawyers' Association within the frameworks of company "Government of Georgia under Sunshine" held effective estimation of activities for the Chamber of Control (See # 7 edition of "Government of Georgia under Burning Sun").

At this stage the draft law on “Chamber of Control of Georgia” is presented to the Parliament of Georgia for discussion. Though, unfortunately the given draft law does not enable **“to implement and establish general methods and systems of audit”** under the recommendation of GRECO Second Evaluation Round, it does not present the attempt on total change in the state control system in Georgia and even in case of its adoption, the major recommendation of international organization – (moving from controlling system to audit system, that needs more large scaled and well-grounded changes than offered by draft law) will not be accomplished.

Some certain positive news are suggested by legislation, e.g. power of the Chamber of Control is being widened, companies founded by 50% participation of state are under its control, also it controls issues regarding administration of taxes. The draft law also considers audit procedures, though some regulations of the draft law on “Chamber of Control” oppose the regulations with “Lima international declaration about instructions for the procedure of audit” and some issues simply remain unregulated:

1. Lima declaration “about instructions for the procedure of audit” underlines: “pre-audit” and “post-audit” among the methods of audit. Pursuant to the declaration: **“Pre-audit represents a before the fact type of review of administrative or financial activities. Effective pre-audit is indispensable for the sound management of public funds entrusted to the state. Pre-audit by a Supreme Audit Institution has the advantage of being able to prevent damage before it occurs”**. The GRECO report of Second Evaluation Round mentions that the control taken by Chamber of Control of Georgia is a post facto control, preliminary control system enabling the county to avoid some breaches of law is not foreseen under the given legislation. Presented draft law also does not consider preliminary controlling mechanisms.
2. The Draft law notes that Chamber of Control **reviews activities of other controlling units** via revision and external audit, though the mentioned issue is not regulated more precisely by the draft law. According to the Lima International Declaration, article 3, paragraph 3: **“As the external auditor, the Supreme Audit Institution has the task of examining the effectiveness of internal audit. If internal audit is judged to be effective, efforts shall be made without prejudice to the right of the Supreme Audit Institution to carry out an overall audit, to achieve the most appropriate division or assignment of tasks and cooperation between the Supreme Audit Institution and internal audit”**. According to the declarations, internal audit refers to internal controlling mechanisms created in governmental departments and institutions. Pursuant to the Georgian legislation, general inspections are such departments, though the issue of internal control is not regulated by the law. Consequently, after adoption

of law on general inspections, the issue about relations between the Chamber of Control and internal control mechanisms should be solved;

3. Within the frames of GRECO Second Evaluation Round, the evaluation report about Georgia mentions that: "State audit appears to be quite weak at the level of local self-government - as of the level where corruption is especially sensitive issue". Thus, one of the recommendations of GRECO is "Strengthening and ensuring audit of local government". The present law on the Chamber of Control" foresees checking effectiveness, reasonableness and legality of expenditure of the budgets of territorial units. The organic law of Georgia on "Local Self-government" itself establishes controlling mechanisms for local self-government units, they are: auditorial and financial checkups. Pursuant to the mentioned standards, the function of the Chamber of Control - to control activities of local self-government units is quite weakened. The presented draft law, as well as the current law, considers financial control of local self-government institutions, but the regulations of organic law on "Local Self-government" still remain unchanged. Thus, in regards to monitoring the activities of local self-government units, there is danger that the role of the chamber will still remain ineffective.

The presented draft law on "The Chamber of Control" together with the positive tendencies includes some certain deficiencies that may cause new difficulties in the future.

As for the general inspections, they differ from the Chamber of Control and are the bodies implementing internal organizational control. Obligation of establishing General Inspections and reforming them is also foreseen under GRECO recommendation and National Anticorruption Strategy of Georgia, though the process of reforming inspections has been terminated, the necessary legislative basis does not exist for them, there is no united standard for establishing and operating of inspections, that causes weakness and inefficiency of state activities in many fields²⁹.

OECD recommendation # 18 – Review the existing public procurement regulations to reasonably limit the discretion of procurement officials in the selection process. Ensure that the eligibility criteria for bidding in the public procurement and privatization processes include the absence of a conviction for corruption. Under the condition of the legal protection of fair competition, consider establishing and maintaining a database of companies that have been convicted for corrupt practices to support such limiting eligibility criteria.

²⁹ See General Inspections – Internal control mechanisms – campaign "Government of Georgia under Sunshine" Edition # 7, Georgian Young Lawyers' Association, 2007

On January 1, 2006 the law on “State Procurement” was adopted, though its implementation turned out to be quite problematic. The legislative novelties often conflict with the objectives of law and the principle for rational expenditure of budgetary funds.

There are two major problematic issues related to the State Procurement Agency in the law on the state procurement: the independence of the State Procurement Agency and power of the agency defined by the law.

Pursuant to the law on “State Procurement”, article 4, 1st paragraph, the State Procurement Agency is “permanent **independent** agency”, control of which is implemented by the government of Georgia.

Nowadays, State Procurement Agency under its active course is totally under unanimous administration of government that creates doubts about the agency’s independent implementation of power and limiting its independence. Furthermore, government is the supreme body of the executive authority, and executive authority itself administers the major part of budgetary funds via procurement. So, under the law, the Agency should control the procurements conducted by the departments being under its subordination.

Representatives³⁰ of American Bar Association and Central European and Eurasian Law Initiative talk about the issue on independence of the State Procurement Agency: “Pursuant to the law, State Procurement Agency is a public legal entity controlled by the Ministry of Economics of Georgia³¹ being one of the heavy buyers. We consider it reasonable to establish the Agency in the form of regulating body, which will not have the body in charge of state control, and will be responsible directly before the president, Parliament and society”.

As for the second problem of the agency regarding its ineffectiveness: the authority of the State Procurement Agency is defined under Article 4, paragraph 6 on “State Procurements”; unfortunately, this authority does not enable the agency to control the process on state procurements in the country. Principal functions of agency involve:

- Elaborating essential standard acts and standard tender documents for the administration of law and their harmonization with international standards;
- Systematic study and analyzing of the current situation under the reports provided by procuring organizations in the field of procurements and presenting suggestions to the government of Georgia for making proper decisions;
- Preparation of special curriculums, educational-methodical materials and standard forms of documentation, delivery seminars and trainings for central and local bodies of authority, representatives of mass media and other interested persons.

³⁰ “UN Convention Against Corruption and Legislation of Georgia” – October, 2006.

³¹ Analysis is composed in October, 2006 when controlling body of agency was the Ministry for Economic Development of Georgia.

- Establishing and improving the united informational database of conducted procurements;
- Providing expert and consultative services to the buyer;
- Keeping registry of potential suppliers;
- Assistance in introduction of procuring systems with modern informational and communication technologies;
- Publication of proper standard acts and accountin information for ensuring the publicity of procurements;
- Discussing complaints according to the administrative code arisen during procurements;
- Monitoring legality of procuring procedures and determining the policy regulating the process of procurements.

The list of capabilities does have enough ground enabling for agency to provide control of state procurements in the country.

During the period of the year 2007, only 9 complaints have been presented to the State Procurement Agency, when throughout a year tens of thousands procurements take place. Scarcity of complaints clarifies the minimal level of agency's efficiency and trust of society towards it.

One more problematic issue is related to selecting personnel for Supervisory Board for State Procurement Agency and its activities. Pursuant to law, the board is obliged to control transparency of the State Procurement Agency, publicity of activities and management under democratic principles.

In respect to the Agency's activities, representatives of American Bar Association and Central European and Eurasian Law Initiative³² state: "The role on state procurements social monitoring is limited: the rule of selecting Supervisory Board being with the agency remains unclear. The law notes that it is composed of officials from administrative and controlling institutions, but in brackets are noted only representatives of governmental departments".

It is to be underlined that after adopting amendments to the law, the problematic issue turned out to be the area for application the law on "State Procurement". In 2006-2007 according to the amendments the area of its application was diminished. At present the law is not applied to:

1. Procurements of electric power or/and natural gas;
2. Procurements of buildings and vehicles in other state for Georgian diplomatic representatives and consulates;
3. From the reserve fund of the President of Georgia, procurements of meetings and

³² UN Convention "Against Corruption" and legislation of Georgia, October 2006

visits for the President of Georgia or/and the Chairman of Parliament, also receiving delegations in the Parliament of Georgia and actions for the organization of visits in foreign countries for the delegations of the Parliament of Georgia and etc.

As far as the law enables to simplify the procedures of procurements, the motive on total freedom from the application of law on “State Procurements on mentioned fields” remained quite obscure.

Thus, under the basis of analysis of legislation related to state procurements it is clearly found that recommendation on state procurements is not yet accomplished.

As for the issue on state property privatization, many problems are also found in this filed. Issues on state property privatization are regulated by: the laws on “State Property Privatization”, on “Privatization of Agricultural Land being as State Property” and on “Management and Administration of Nonagricultural Land”.

According to the results of monitoring of the legislative base and practice³³ conducted by the Georgian Young Lawyers’ Association revealed that:

1. The current legislation gives possibility of making subjective decision;
2. Alienation of state property in the form of direct sale does not often occur under the frames of law;
3. Imposed obligations are not often implemented in general of partly from procurements of state property;
4. There are no any mechanisms for monitoring and controlling alienation of state property causing high probability of corruption agreements in accomplished or ongoing process of privatization.

Thus, the legislation of Georgia faces some deficiencies in the field of state property’s privatization, though it is to be mentioned that even in this case the problem is still nonexistence of effective control mechanism.

Freedom of Information

OECD recommendation # 19 – Ensure that the access to information legislation limits discretion on the part of the public officials in charge as to whether the requested information should be disclosed, and to limit the scope of information that could be withheld. Consider steps to reach out to both, public officials as well as citizens to raise awareness about their responsibilities and rights under the access to information regulations.

Ensure the implementation of outstanding January recommendations in the area of transparency of civil service and financial control issues.

³³ See “Privatization of State Property – problems and imperfections “Government of Georgia under Sunshine – 7th edition, Georgian Young Lawyers’ Association, 2007.

GRECO VII recommendation involves the same content: “Evaluation of accomplishment of the regulations’ general administrative code related to the availability of information in order not to have incorrect limitation of public authority on availability information; Responsible persons on information will be delivered trainings”.

National Anticorruption Strategy of Georgia, paragraph 2.2 also related to the issues for the transparency of public service:

“One of the necessary premises of corruption agreement is opaque and improper execution of duties for the activity of state institutions and the society, that itself in many cases provides the basis on making corruption agreements. So, it is very important for state to have complete and free information on activities and duties of all special state institution, local government and self-government institutions. Information on some certain issues is to be public and easily accessible”.

Despite of the fact both the recommendations of OECD and GRECO consider ensuring the implementation of the principle on freedom of information; the Action Plan does not even pay attention to implementation of this principle.

The Georgian Young Lawyers’ Association studied the problems related to the legislation on freedom of information, prepared corresponding report and elaborated recommendations³⁴. Recommendations implied domestic legislation related to freedom of information and all problems existing in the country and the ways of solving them.

Recommendations concerned the following issues:

1. For the purposes of correct interpretation regarding the fields of public information: a) Correct interpretation of proper article of general administrative code via legislative amendments or with establishing accurate practice; b) Spreading the obligation of transparency over monopolist enterprises and industrial subjects established under partial participation of the state; c) Implementation/setting proper procedures for the development of information and separation of confidential information from the public one;
2. Eradication of legislative measures conflicting with the principles for the freedom of information, including the issues in tax code, the regulations for privatization of state property via auction and other acts;
3. Changing old law on “State Secret”, implementation of tests of “Damage” and “Public Interest”;
4. Adoption of new standard act about business correspondence that according to general administrative code will provide detailed service on procedures for distributing public information and takes into consideration probability on immediate issuance of information;

³⁴ See “Freedom of Information in Georgia”, Georgian Young Lawyers’ Association, 2007.

5. Eradication of problems in respect to copying public information, namely “about payment for the copy of public information” adoption of amendment to the law that: a) will set a certain limit when the copy is free of charge; b) will enable payment via bank transfer;
6. In order to eradicate the problems regarding court fee: a) amount of court fee to be defined according to the value of information; b) permitting free of charge complaint related to some certain public information (personal data, information about environment).
7. Creating a website for public institution and placement of certain information on it. Determining the list of information categories that have to be placed on the website;
8. Creating mechanisms for requesting public information via internet;
9. Establishing of proper legislative base, in order to regulate protection of personal information;
10. Determining on the normative level the rules on administering public information database, public registry and persons responsible for it, processing information from the database and rules of separation;
11. Establishment of the registry for public legal entities;
12. Establishment of effective mechanisms of responsibilities in public institutions; Determining responsibility for the persons responsible on accessibility of public information and breaches of rules on requesting public information;
13. Definition of responsibility by public institutions about the freedom of information for not submitting reports and adoption of the obligation for discussing and evaluating the given reports and responsibility evaluation.

At the meeting organized by the machinery of the State Minister in the field of reforms' coordination, of the recommendations represented by GYLA was discussed in details, though they never were reflected in the Action Plan.

Some certain issues related to accessibility of public information was foreseen in the draft law by the machinery of State Minister “about incompatibility of interests and corruption in public office”, though unfortunately, the regulations considered in the draft law neither fulfilled the recommendations of international organizations, nor involved completely opposite actions.

Pursuant to the draft law a “public employee is obliged to distribute public information only in the cases considered under the legislation of Georgia and maintaining the rules set for public institution where this person is employed”.

Pursuant to the given project: “public official should take proper measures for the confidentiality of information (information including state secret, gained while fulfillment

duties **related to person's reputation and other information that list of which will be provided under proper code of conduct**). Aforesaid rule is active even after the person's dismissal".

The third chapter of general administrative code of Georgia states the issue on kinds of information depending publicity and the ways of its announcement. Aforesaid stating confers additional **duty** to public employees on announcing information under those special standards and requirements of public institutions where they are employed. The mentioned material enables to state the regime differed from general administrative code under some certain act, causing limitation for the freedom of information.

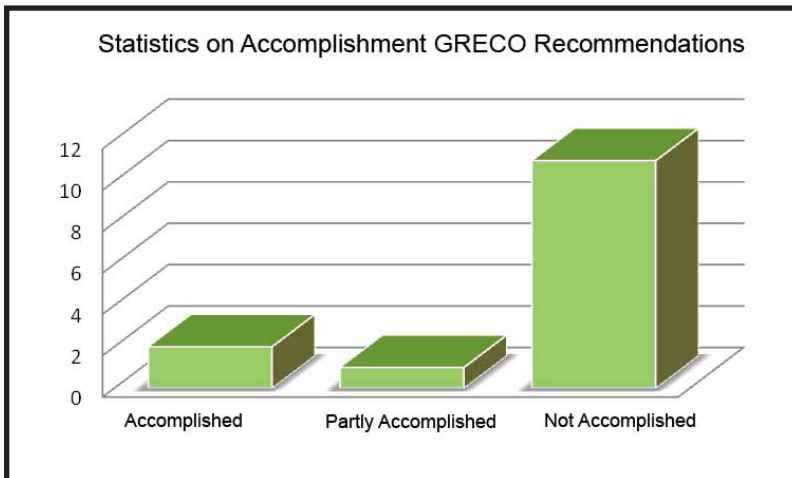
Suggested standards enable to hide any information that is in no way approved. Legislation of Georgia foresees those concrete cases, when there is accepted limitation accessibility for public information, defined when, how, by whom and what kind of information is accepted to close be closed. The standard presented in a draft law perils entire freedom of information in the country; it states that any information that will be defined under proper code of conduct may be found closed.

So, recommendations related to the transparency of international organizations' public office are not fulfilled by responsible departments, furthermore, the given legislative initiative perils protection of principles for freedom of information in the country.

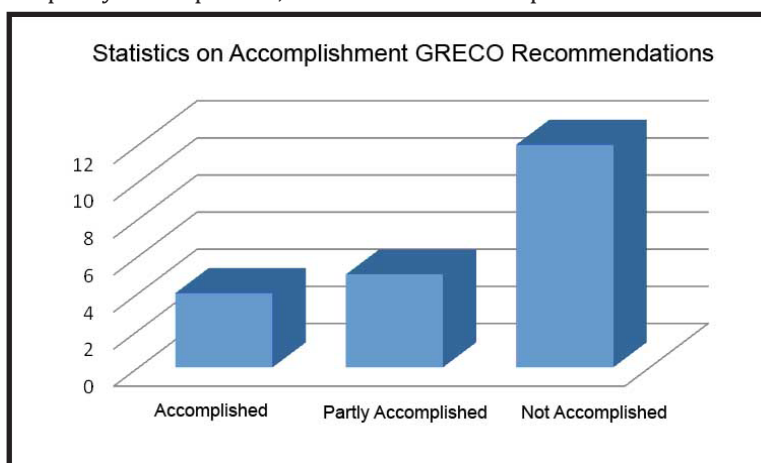
CONCLUSION

As a result of review on performance of the Georgian national and international anticorruption obligations, it becomes clear that the number of unfulfilled obligations dominates in the statistics on performance of the national and international anticorruption obligations. The statistics appears to be the following:

1. 2 recommendations are completely accomplished from GRECO recommendations; 1 is partly accomplished; but 11 are not accomplished.



2. 4 recommendations are completely accomplished from OECD recommendations; 5 are partly accomplished; but 12 are not accomplished.



3. 12 paragraphs are completely accomplished from National Anticorruption Strategy Action Plan; 10 are partly accomplished; but 27 are not accomplished.



The goal of the given research was to depict the very objective truth faced by Georgia; also to determine what activities are conducted against corruption in this country and how consistent they are with the international standards.

Pursuant to the aforesaid report, many legislative and practical problems still remain actual, despite the success gained by Georgia in the field of anticorruption during the recent years. It is necessary to implement many important and difficult reforms in order to make the existence of corruption impossible. The effective mechanisms should be for controlling and monitoring and accurate legislative database should be created. Thus, Georgia still has enough time for fulfilling the obligations before the society and international organizations.

**MONITORING OF THE FULFILLMENT OF THE GEORGIAN NATIONAL AND INTERNATIONAL
ANTICORRUPTION OBLIGATIONS**

#	Recommendation	Result
<i>OECD Recommendation Implementation</i>		
1	<p>Review and update existing anti-corruption policies; in order to demonstrate political will, mobilize civil society and all actors to participate; priorities and focus on implementation measures. It is very important to review existing anti-corruption laws.</p> <p>Recognizing that the magnitude of challenges calls for active and rapid actions, Georgia should ensure that policy reforms are carried out in a fully transparent and participatory manner, are based on sound analysis and consistent with the overall reform objectives. In particular, the elaboration of the new Anti- Corruption strategy by the National Security Council should be open for public participation, pursuant to January recommendations 1 and 2.</p>	Not accomplished
2	<p>Strengthen the existing Anti-corruption Coordination Council, which should consist of persons with high moral and ethical standing, including representatives of the general public and from relevant executive bodies (administrative, financial, law enforcement, prosecution) as well as from the Parliament and civil society (e.g. NGOs, academia, respected professionals).</p>	Not accomplished
3	<p>Establish a Specialized Anti-corruption Agency with a mandate to detect, investigate and prosecute corruption offences, including those committed by high-level officials. Such an agency could be structurally linked to the Anti-Corruption Bureau or to the General Prosecutor's Office, but should be given proper independence in both cases. It is important that the Agency would combine law enforcement/investigative (e.g. the best officers from the existing police Department on Economic Crime and Corruption could be seconded to work in such an agency) and prosecution departments and be headed by a person with the powers of a Prosecutor. Apart from working on actual high-level corruption cases, one of the main tasks of such an Agency would be to enhance inter-agency cooperation between a number of law enforcement, security and financial control bodies in corruption investigations (e.g. by adopting clear guidelines for reporting and exchange of information, introducing a team-work approach in complex investigations).</p> <p>The establishment of the special anti-corruption division in the Prosecution is related to the January recommendation 3 concerning the establishment of a specialized anti-corruption agency. At this early stage the recommendation 3 can be reiterated to encourage further efforts ensuring proper independence of such a body, its mandate for law-enforcement and prosecution, and its role</p>	Not accomplished

	of coordinating various law-enforcement, security and financial control bodies.	
4	Adopt guidelines for increased cooperation, exchange of information and resources between the agencies responsible for the fight against organized crime and those agencies responsible for the fight against corruption.	Not accomplished
5	Review the current system of disciplinary, administrative and criminal corruption offences, harmonize and clarify relationships between violations of the Criminal Code and other relevant legislation. Ensure the implementation of outstanding January recommendations, in particular recommendations 6, 7, 8 and 10, which relate to bringing up criminalization of bribery and corruption related offences in line with international standards (such as the Council of Europe's Criminal Law Convention on Corruption, the United Nation's Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions) and to responsibility of legal persons for corruption offences.	Partly accomplished
6	Amend the incriminations of active and passive bribery in the Criminal Code to meet international standards. In particular, clarify the relationship between the offence of passive bribery (Art. 339), and the offence of accepting prohibited presents (Art. 340). Consider increasing the punishments for active bribery and the statute of limitations for all corruption offences.	Partly accomplished
7	Ensure that the definition of "official" in the Criminal Code encompasses all public officials or persons performing official duties in all bodies of the executive, legislative and judicial branch of the State, including local self-government and officials representing the state interests in commercial joint ventures or on board of companies.	Partly accomplished
8	Introduce the criminalization of bribery of foreign or international public officials, either through expanding the definition of an "official" or by introducing separate criminal offences in the Criminal Code.	Accomplished
9	Consider amending the Criminal Code to ensure that the confiscation of proceeds applies mandatory to all corruption and corruption-related offences. Ensure that the confiscation regime allowed for confiscation of proceeds of corruption, or property the value of which corresponds to that of such proceeds or monetary sanctions of comparable effect, and that confiscation from third persons is possible. Review the provisional measures to make the procedure for identification and seizure of proceeds from corruption in the criminal investigation and prosecution phases efficient and operational. Explore the possibilities to check and, if necessary, to seize unexplained wealth.	Not accomplished

	Monitor the newly established confiscation of proceeds regime and the confiscation of unexplained wealth and invest special attention that they are implemented in a non-discriminatory and non-arbitrary manner through proper checks and balances and safeguards.	
10	Recognizing that the responsibility of legal persons for corruption offences is an international standard included in all international legal instruments on corruption, Georgia should, with the assistance of organizations that have experience in implementing the liability of legal persons (such as the OECD and the Council of Europe), consider how to introduce into its legal system efficient and effective liability of legal persons for corruption.	Accomplished
11	Adopt clear, simple and transparent rules for the lifting of immunity and limit the number of categories of persons benefiting from immunity (e.g. candidates for the Parliament) or the scope of immunity for some categories (e.g. judiciary) to ensure that it is restricted in applications to acts committed in the performance of official duties.	Partly accomplished
12	Ensure effective international mutual legal assistance in the investigation and prosecution of corruption cases.	Partly accomplished
13	Introduction of a system of merit-based appointment and promotion in the civil service is needed.	Not accomplished
14	Prepare, and widely disseminate, comprehensive and practical guidelines for public officials on corruption, conflicts of interest, ethical standards, sanctions and reporting of corruption. Consider elaborating specific Codes of Conduct for public officials and work on their dissemination.	Not accomplished
15	Strengthen the Public Service Bureau to improve the observance of legal requirements in the civil service at large. Provided that the Public Service Bureau is strongly committed to upholding professional and legal standards in the civil service, it should be vested with powers to enforce legislation, in particular with the help of disciplinary actions.	Not accomplished
16	Ensure a more effective enforcement of the Law on Conflict of Interest and Corruption. Consider strengthening the existing institution that monitors its implementation and provide the institution with the authority to verify the accuracy of submitted asset declarations. All asset declarations have to be available to the public.	Not accomplished
17	Adopt measures for the protection of employees in State institutions against disciplinary action and harassment when they report suspicious practices within the institutions to law enforcement authorities or prosecutors, and launch an internal campaign to raise awareness of those measures among civil servants; adopt (basic) regulations on the protection of “whistleblowers”.	Not accomplished

18	Review the existing public procurement regulations to reasonably limit the discretion of procurement officials in the selection process. Ensure that the eligibility criteria for bidding in the public procurement and privatization processes include the absence of a conviction for corruption. Under the condition of the legal protection of fair competition, consider establishing and maintaining a database of companies that have been convicted for corrupt practices to support such limiting eligibility criteria.	Not accomplished
19	Ensure that the access to information legislation limits discretion on the part of the public officials in charge as to whether the requested information should be disclosed, and to limit the scope of information that could be withheld. Consider steps to reach out to both, public officials as well as citizens to raise awareness about their responsibilities and rights under the access to information regulations. Ensure the implementation of outstanding January recommendations in the area of transparency of civil service and financial control issues.	Not accomplished
20	Review the Tax Code to make compliance with its provisions simpler, and to reasonably limit the discretion of tax officials. Further steps towards liberalization of business environment should be promoted. Such steps could include, for instance, a diagnostic of administrative barriers for business activities.	Accomplished
21	Ensure necessary conditions for the effective functioning of the Georgian Financial Intelligence Unit (FIU) and adequate resources and training of the FIU staff.	Accomplished
Implementation of GRECO Recommendations		
1	To establish guidelines and through training for those officials (law enforcement officials and prosecutors) who are required to apply the new rules on confiscation and seizure, paying particular attention to financial investigations.	Not accomplished
2	To abolish or at least substantially lower, the threshold of 5000 Gel, with regard to corruption as predict offence to money laundering.	Accomplished
3	To improve possibilities for information gathering by the Financial Monitoring Service (FMS), inter alia by improving its access to relevant databases;	Not accomplished
4	To (i) develop and implement a common methodology and standards for carrying out audits in respect of public sector, bearing in mind the particularities of its various components; (ii) strengthen the auditing of local authorities, and (iii) ensure effective auditing of state enterprises.	Not accomplished
5	To implement uniform rules for the transparent, impartial recruitment and promotion of public servants and to take measure to ensure their fair and	Not accomplished

	impartial appraisal.	
6	To implement measures to limit the influence of political personnel over the recruitment of and disciplinary proceedings against judges, in the interest of formal and substantive judicial independence.	Not accomplished
7	To assess the implementation in practice of the provisions of the General Administrative Code on access to information to ensure that the public's right to access information is not unduly limited, and to provide training to those public servants designated to respond to requests for information.	Not accomplished
8	To establish clear rules for all employees in the public sector on receiving gifts and actual and potential conflicts of interest, and to provide for an appropriate mechanism for the enforcement of these rules.	Not accomplished
9	To take measures to have codes of conflict adopted for all employees in the public sector, both at local and state level, in order to clarify and complement the rules on inter alia conflicts of interests, gifts and reporting of corruption.	Not accomplished
10	To introduce clear rules requiring all employees in the public sector to report suspicious of corruption in public administration and to ensure that those who report such suspicions in good faith are adequately protected from adverse consequences.	Not accomplished
11	To take appropriate measures to promote the wider use of disqualification sanctions in respect of persons acting in a leading position in a legal person (for instance, by providing training on the issue to judges and prosecutors), and to establish a suitable mechanism for the enforcement of such disqualification sanctions.	Not accomplished
12	(i) To amend the provisions on corporate liability in the Criminal Code to ensure that legal persons can be held liable in cases where lack of supervision or control by a natural person has made possible the commission of active bribery, money laundering or trading in influence and (ii) to provide appropriate training on criminal liability of legal persons to all officials concerned with a view to ensuring that full use of these provisions is made in cases of active bribery, trading in influence and money laundering.	Partly accomplished
13	To develop guidelines and effective training to improve the ability of tax inspectors to detect corruption offences, in particular as regards bribes concealed legitimate expenses	Not accomplished
14	To revise the existing legal provisions on accounting offences and sanctions to ensure that the creation or use of invoices or other accounting documents containing false or incomplete information on unlawfully omitting to make records of payments, in order to commit, conceal or disguise corruption and	Accomplished

	trading in influence, are liable to criminal or other sanctions.	
<i>National Anticorruption Strategy Implementation Action Plan Report</i>		
1	Drawing draft about electronic signature and its presentation to the Parliament of Georgia.	Accomplished
2	Development of strategic and annual planning process under the principles of Medium-Term Expenditure Framework (MTEF) in the Ministry of Finances.	Partly accomplished
3	Adoption of the Basic Data and Directions (BDD) document.	Accomplished
4	Gradual movement of state territorial and local budgets to GFSM2001 (under the basis of commission methods on accounting)	Partly accomplished
5	Formation of uniform standards on internal financial control implementation in public sector.	Not accomplished
6	Development of local self-government financial control	Not accomplished
7	Implementation of financial control for the companies in state property.	Not accomplished
8	Establishment of uniform and transparent standards for the improvement of employment and promotion individuals in public service.	Not accomplished
9	Review-definition the rules on acceptance gift forbidden under law and conflict of interests for public officials.	Not accomplished
10	Implementation of code of conduct/ethics for public officials.	Not accomplished
11	Improvement/development of means on discovery and access of information by PLE "Financial Monitoring Service of Georgia".	Partly accomplished
12	Holding standard method of research on defining level of corruption.	Not accomplished
13	Development of internet network – organization of exchanging e-taxation documentation between treasury departments and organizations under its service.	Accomplished
14	Involvement of treasury in united payment system (RTGS) in real time of National Bank of Georgia.	Accomplished
15	Implementation of legislative amendments for the development of purchases procedure and formation of PLE "Agency of State Purchases" as independent institution.	Not accomplished
16	Efficient implementation of hospital sector general plan.	Not accomplished
17	Trainings in construction permit to be delivered for municipal office employees	Accomplished
18	Review of Georgian national independent controlling institutions system.	Accomplished
19	Separation/division of cameral control and physical examination of load between customs officer	Not accomplished
20	Implementation of judiciary standard acts foreseen under Georgian customs code for the simplification of administrative procedures and reduction of time upon registration of load at customs office.	Accomplished

21	Development of tax audit standards in the department of revenues of the Ministry of Finances of Georgia.	Partly accomplished
22	Implementation of electronic system for payers' services, access and delivery of declarations and other information via electronic means.	Not accomplished
23	Proceeding privatization of agricultural land being as state property	Partly accomplished
24	Integration of code of ethics for the policy of Georgia in curriculum.	Partly accomplished
25	Professional trainings for the employees of several divisions of Georgian police (border police, criminal police, and patrol police), also regional inspectors and employees engaged in temporary place of detention.	Accomplished
26	Development/implementation of protection system for witnesses.	Not accomplished
27	Announcement public information (document on criminal convictions and investigation), also growing and simplification of efficiency for the system of permits in the Ministry of Internal Affairs of Georgia.	Partly accomplished
28	Raising citizens conception and gaining information about corruption and anticorruption activities for their future distribution	Not accomplished
29	Establishment of curriculums for judges education and training, formation of strategy, staffing and training of instructors within the frameworks of PLE "Highest Academy of Justice".	Not accomplished
30	Implementation of guideline for the promotion of active judges; Definition of different requirements for the promotion of judges in courts of higher instances.	Not accomplished
31	Adoption proper legislative amendments in order to have a ground for judges' limitless appointment.	Not accomplished
32	Decentralization of funds in state budget assigned for courts	Not accomplished
33	Definition of those very articles of Georgian criminal law assigned for juries' court jurisdiction.	Not accomplished
34	Setting in motion juries' court institute	Not accomplished
35	Establishment of independent Council of Public Prosecutors' Office in the system of Georgian Public Prosecutor's Office.	Not accomplished
36	Organization of regular trainings for Public Prosecutors of Tbilisi Regional (City), District and General Public Prosecutor's Offices.	Partly accomplished
37	<ol style="list-style-type: none"> 1. Intensification of duties of public officials related to notification about corruption crimes; Intensification of protection for such public officials. 2. Development/Implementation of accusers according to the international standards. 3. Amendments to be made in the rules on criminal conviction for legal persons. 	Not accomplished

38	Foundation of Central Coordination Council of Social Supervisory Commission at penitentiary institutions.	Not accomplished
39	Training of employees for penitentiary and probation departments via PLE "Educational Center of Penitentiary and Probation"	Partly accomplished
40	Implementation and adoption of code of imprisonment.	Not accomplished
41	Adoption of draft law "about legal service".	Accomplished
42	Establishment of administrative bodies of legal assistance service under the basis of law.	Not accomplished
43	Formation of registry for treasury lawyers and commencement lawyers' registration	Accomplished
44	Implementation of corresponding actions "against corruption" aiming ratification of UN Convention.	Not accomplished
45	Preparation of amendments in corresponding legislation aiming development issues on officials revenues and property, also property account and procedure.	Not accomplished
46	Raising and development of transparency for funding system of political parties and election campaigns.	Not accomplished
47	Annulment of 5,000 GEL limit, established for criminal crime on money laundering (that itself is pre-crime (predicative) of corruption crime)	Accomplished
48	Harmonization of Georgian legislation, Council of Europe "Against Corruption" with criminal convention (namely, Criminal Law Convention of the Council of Europe, Articles 14, 18, 19)	Partly accomplished
49	Active cooperation and preparation of periodic report with "Economic Cooperation and Development Organization Anticorruption Network (ACN) aiming total implementation of 21 recommendations to Georgian sector by CAN in January 18, 2004.	Accomplished