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ფონდი ღია საზოგადოებან საქართველო

# ADDRESSING HIGH-LEVEL CORRUPTION IN GEORGIA: PROGRESS TOWARD MEETING THE EU-GEORGIA ASSOCIATION AGENDA COMMITMENTS

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## BACKGROUND

Since 2004, Georgia has implemented a number of successful anti-corruption reforms resulting in a significant decrease in the frequency of certain types of corruption, most notably bribery within public service. At the same time, while petty corruption is nowadays a rare phenomenon in a country that was once plagued by endemic corruption, other manifestations of corruption are yet to be addressed effectively. This is especially when they occur at higher levels of public administration and government institutions.

The 2014-2016 EU-Georgia Association Agenda highlighted, among other things, the Georgian government's commitment to:

“Take adequate measures at all levels of society to prevent, detect and address corruption especially high-level corruption.”<sup>1</sup>

Corruption is most commonly defined as abuse of entrusted power for private gain.<sup>2</sup> High-level corruption usually refers to the same type of abuse perpetrated by high-ranking government officials or influential politicians.

### **How did high-level corruption change in Georgia during the implementation of the Association Agenda?**

Assessing Georgia's progress in tackling high-level corruption since the adoption of the Association Agenda is a complex task, mainly due to the lack of a universal and comprehensive method for measuring the level of corruption in any given country during a specific time period.

Given the difficulty of measuring the different levels and degrees of corruption (including high-level corruption) that can be identified during the period in which the Association Agenda was supposed to be implemented, the most rational approach to the problem is to employ a number of indirect indicators, the combination of which makes it possible to assess how the situation has changed, namely:

- Changes in public perception of high-level corruption in Georgia;
- Public opinion concerning the government's anti-corruption policy;
- Any notable changes in the relevant laws;
- Application of the relevant anti-corruption laws in practice, and the government's performance in terms of handling potential cases of high-level corruption.

These four benchmarks will be examined in the sections below.

<sup>1</sup> [https://eeas.europa.eu/sites/eeas/files/associationagenda\\_2014\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/associationagenda_2014_en.pdf)

<sup>2</sup> <https://www.transparency.org/what-is-corruption/#define>

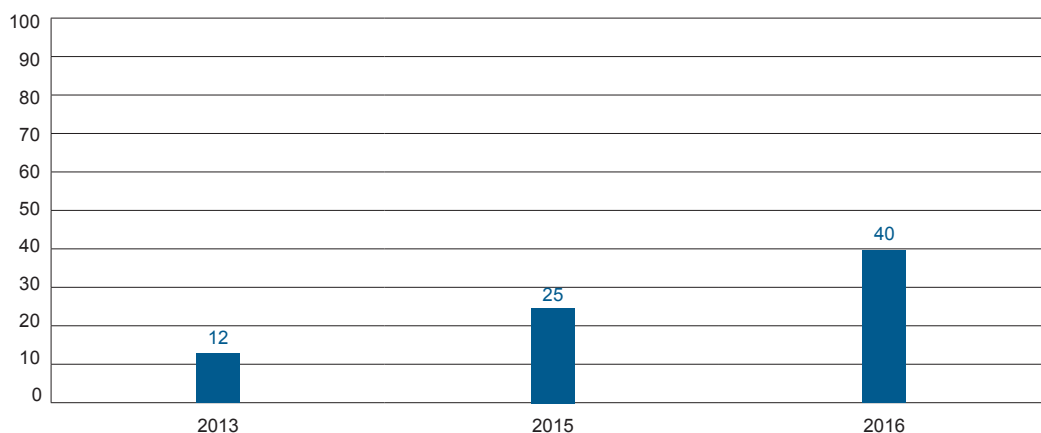
## PUBLIC PERCEPTION OF HIGH-LEVEL CORRUPTION

Although no public opinion survey has been conducted in recent years specifically on high-level corruption in Georgia, some of the available surveys that addresses different or more general issues, contain data that can be useful. Transparency International Georgia conducted public opinion polls in 2013, 2015 and 2016, and one of the questions that the respondents were asked was whether it is common in Georgia for public officials to abuse power for personal gain. The data from these polls demonstrates a clear deteriorating trend of in public perception in the country as far as corruption is concerned.<sup>3</sup>

## PUBLIC ASSESSMENT OF GOVERNMENT POLICY

The Global Corruption Barometer (GCB) is a cross-country public opinion survey on corruption conducted regularly by Transparency International. Georgia was among the countries included in the survey in 2016 and one of the survey's questions concerned the respondents' assessment of their government's anti-corruption policy.<sup>4</sup>

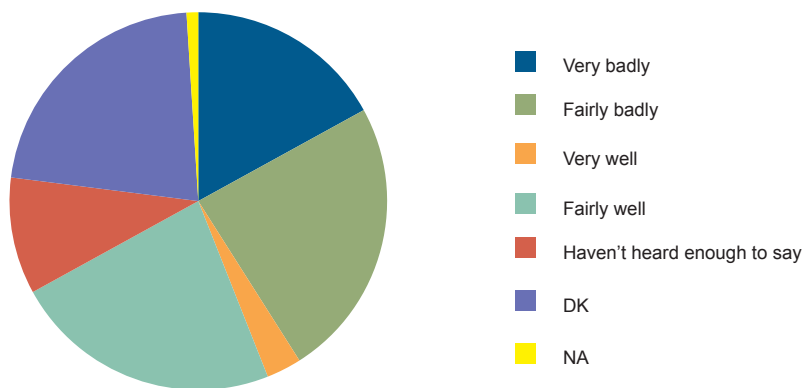
**GRAPHIC 1.** % OF PEOPLE WHO BELIEVE THAT IT IS COMMON FOR PUBLIC OFFICIALS TO ABUSE POWER FOR PERSONAL GAIN IN GEORGIA



3 <http://www.transparency.ge/en/blog/results-public-opinion-poll-indicates-deterioration-field-corruption>

4 <http://www.transparency.ge/en/post/barometer2016-eng>

GRAPHIC 2. HOW IS THE GOVERNMENT HANDLING THE FIGHT AGAINST CORRUPTION IN GEORGIA? (GCB 2016)



## CHANGES IN THE LEGAL FRAMEWORK

During the implementation of the 2014-2016 Association Agenda, some notable positive changes in Georgia's anti-corruption legislation were adopted.

In late 2015, the Georgian parliament approved a package of amendments to the Law on Conflict of Interest and Corruption in Public Institutions. Under these amendments, the regulations concerning whistleblower protection and the post-public employment of former officials improved and, most importantly, a system for the verification of the content of asset declarations of public officials was established. These changes were important steps toward greater transparency and accountability in the public administration and state institutions, although it remains to be seen how effectively they will be enforced in practice.

## APPLICATION OF ANTI-CORRUPTION REGULATIONS IN PRACTICE AND HANDLING OF POSSIBLE CASES OF HIGH-LEVEL CORRUPTION

Georgia has had considerable difficulties in terms of ensuring adherence to its anti-corruption laws and regulations in practice as well as investigating possible cases of high-level corruption.

## ADDRESSING HIGH-LEVEL CORRUPTION IN GEORGIA

A 2015 report by Transparency International Georgia identified major gaps in terms of the application of the country's corruption and conflict of interest rules in practice. The study found that a majority of public institutions did either have ineffective internal enforcement mechanisms or did not have such mechanisms at all, with external oversight mechanisms missing entirely.<sup>5</sup> A 2017 assessment of the country's anti-corruption bodies by the Institute for the Development of Freedom of Information noted that recently there was not a single incident where the Georgian authorities successfully investigated a case of high-level corruption. The study identified the lack of independence from political leadership (the ruling party) along with the lack of resources (as well as of transparency and accountability) as the main factors contributing to the ineffectiveness of Georgia's anti-corruption institutions.<sup>6</sup>

The OECD's Anti-Corruption Network (OECD ACN) for Eastern Europe and Central Asia adopted a report in September 2016 reflecting its assessment of the Georgian government's anti-corruption reforms and policies for the period 2013-2016. The report noted that practical enforcement of anti-corruption and conflict of interest regulations are "almost non-existent" and that there is a "wide and strong public perception of high level of corruption among the politicians." The OECD ACN also reviewed Georgia's public procurement system (which is a potential source of high-level corruption in any country) and, while praising the transparency and openness of the electronic procurement platform, noted that the use of direct contracting remains "excessively high." The report also criticized Georgia's current institutional arrangements for combating corruption, emphasizing that the decision to place the anti-corruption agency within the State Security Service was "dubious."<sup>7</sup>

During the period of time in question (2014-2016), a number of potential cases of high-level corruption were made public by civil society organizations and the media, but none of these resulted in investigations or prosecutions. For example, in June 2016, Transparency International Georgia highlighted suspicious circumstances in which publicly owned land in and around the Tbilisi Botanical Garden was acquired by a group of companies linked to former Prime Minister Bidzina Ivanishvili. In May 2017, Opposition politicians and journalists made illicit enrichment allegations against Soso Gogashvili, the deputy head of the State Security Service,<sup>8</sup> and the former Chief Prosecutor Otar Partskhaladze.<sup>9</sup> A 2017 review of campaign donations for the 2016 parliamentary elections revealed that a number of public officials had contributed to the ruling party's financial contributions which were clearly disproportionate compared with their declared annual income.<sup>10</sup>

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5 <http://www.transparency.ge/en/post/report/implementing-georgia-s-anti-corruption-laws-practice-remains-problem>

6 [https://idfi.ge/en/independent\\_anti\\_corruption\\_structure\\_creation\\_needs\\_georgia](https://idfi.ge/en/independent_anti_corruption_structure_creation_needs_georgia)

7 <http://www.transparency.ge/en/blog/process-disposal-land-parcels-botanical-garden-tbilisi-and-area-adjacent-it-reveals-signs-corruption>

8 <http://rustavi2.ge/en/news/74047>

9 <http://www.rustavi2.ge/en/news/75798>

10 <http://www.transparency.ge/en/post/report/election-campaign-finances-georgia-2016-parliamentary-elections>

## CONCLUSIONS AND RECOMMENDATIONS

The evidence cited in the preceding sections suggest that during the period of time in question (2014-2016), the Georgian government failed, overall, to take “adequate measures” to prevent, detect and address high-level corruption. While some steps were taken to improve the legal framework, there were clear gaps in terms of the enforcement of the existing corruption and conflict of interest regulations and also in terms of investigating and prosecuting possible cases of high-level corruption (either proactively by the authorities or in response to the revelations made by other actors, such as the media and civil society).

The evidence also indicates that the enforcement gaps are linked to the lack or weakness of dedicated mechanisms for ensuring compliance with the existing rules, and for investigating high-level corruption.

It is therefore possible to identify a number of steps that the Georgian authorities should take in order to address the existing problems and improve the country’s ability to combat high level corruption:

- Conduct regular public opinion surveys on corruption and anti-corruption policy;
- Conduct a performance review of the internal bodies responsible for the enforcement of conflict of interest and corruption rules within public institutions and design targeted reforms of these bodies based on the findings of the review;
- Consider reform options for the country’s central institutions responsible for investigating and prosecuting corruption and, at the very least, separate the anti-corruption agency from the State Security Service;
- Take steps to ensure sufficient independence of the key anti-corruption institutions from the country’s political leadership and the ruling party;
- Reduce exemptions from open bidding in the procurement law in order to reduce the overall volume of direct (non-competitive) contracting.

There has so far been a clear lack of political will in Georgia either to ensure sufficient independence of the existing law enforcement bodies or to establish a separate anti-corruption agency. This is part of the wider problem of the country’s failure to establish an autonomous and professional civil service that would be insulated from undue political and partisan influence. Georgia’s governments (both current and former) have sought to retain firm control over the civil service and to use public institutions (including law enforcement bodies) for their partisan goals, which often reduces their ability to act according to the public interest (including their capacity to effectively investigate possible cases of corruption involving influential members of the government and the ruling party). The Association Agenda produced some tangible improvements in legislation over the last three years but the situation is yet to improve in practice, so it is extremely important to retain the focus on high-level corruption in the next Association Agenda if Georgia is to make further progress towards reducing corruption.