

Strengthening institutional
frameworks for local governance

GEORGIA

Handbook on Transparency and Citizen Participation

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GEORGIA
Handbook on Transparency
and Citizen Participation

Strengthening institutional frameworks for local governance

Council of Europe

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Four handbooks were produced with country-specific information for Armenia, Georgia, the Republic of Moldova and Ukraine. They aim to preserve and share the lessons learnt and best practices identified during the implementation of the abovementioned project, which is supported by the national associations of local authorities.

The research work and writing of this *Handbook* was carried out by Mr Tim Hughes, Director of The Involve Foundation, and Mr Saba Buadze, national consultant for Georgia. The overall co-ordination was ensured by the Department of Co-operation and External Relations of the Secretariat of the Congress of Local and Regional Authorities of the Council of Europe.

TABLE OF CONTENTS

FOREWORD	6
1. PURPOSE AND STRUCTURE OF THE HANDBOOK	8
2. ETHICS AND PUBLIC ACCOUNTABILITY	10
2.1. International context	10
2.2. National context	11
3. CORRUPTION RISKS	13
3.1. Bribery	13
3.2. Conflict of interest	15
3.3. Embezzlement	17
3.4. Fraud	19
3.5. Nepotism	21
4. TRANSPARENCY	23
4.1. Access to information	23
4.2. Open data	25
4.3. Disclosure: declaration of assets and conflict of interest	27
4.4. External audit	30
4.5. Code of conduct	32
5. CITIZEN PARTICIPATION	35
5.1. Complaints mechanisms	35
5.2. Open policy making	37
5.3. Participatory budgeting	39
5.4. Public consultation	41
5.5. Public petitions	44
6. CONCLUSION	46

FOREWORD

Governments can only function effectively if they enjoy the trust of their citizens. Local governments, municipalities and their civil servants have a crucial role in trust building and participatory decision making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regard to national governments, and represent the first interface between citizens and elected representatives. The professionalism and integrity of these governments and local administrations and their ability to function in a transparent, responsive and accountable manner will doubtlessly lead to enhanced, fair and equitable services to citizens. Local and regional elected representatives therefore must act as role models in the areas of public ethics, transparency and participatory decision making.

However, we cannot ignore the fact that local authorities, as any public authority, are susceptible to corruption, which poses a major threat to the legitimacy of democratic institutions, as well as to the degree of trust that citizens place in their representatives. Threats such as the lack of transparency and poor public ethics are problems faced by all levels of government, including the local and regional levels. They affect citizens, governments and businesses alike and pose a threat to the universal access to basic services and local development. The fight against corruption needs to remain a long-term priority for local and regional governments and their associations. Concerted preventive action is paramount in order to foster economic growth, improve living conditions and develop citizens' trust.

As the decentralisation of power advances, the quality of local governance becomes even more decisive. Therefore, along with the introduction of criminal law provisions against corruption, it is essential to promote public ethics, transparency and participatory decision making in order to reduce the risk of corruption and boost the citizen confidence in local and regional authorities. The Congress of Local and Regional Authorities of the Council of Europe took a firm step in the promotion of ethical governance by adopting, in 1999, the European Code of conduct for the political integrity of local and regional elected representatives. An advisory group was recently established to revise this Code and update it to address the new challenges, including new forms of communication, the impact of digital technology, the respect for the privacy of data, and to enlarge the scope of its application to all actors involved in local and regional governance, and not just elected officials.

The Congress is committed to promote ethics and transparency at local and regional levels as an essential component of enhancing the quality of local and regional democracy, one of the key priorities for the period 2017-2020. With that aim it set "Ethics and Transparency at local and regional level" as the theme for its two plenary sessions in 2016, and in October 2016 adopted a "Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels". One of the objectives of this roadmap is to deepen our understanding of the various risks and forms of corruption

that exist at the local and regional levels. In that perspective the Congress recently adopted reports on the abuse of administrative resources in election campaigns as well as on preventing corruption in public procurement, and is currently preparing reports on conflicts of interests, the protection of whistle-blowers, nepotism in the recruitment of staff, and transparency and open government.

As a sign of its political determination to tackle this issue, the Congress has appointed a spokesperson on promoting public ethics and preventing corruption at the local and regional levels, Mr Herwig Van Staa, along with a substitute spokesperson, Mr Andreas Galster. In 2017, during the 33rd session of the Congress, it also brought to the fore the important perspective of young people and open government in the fight against corruption. This is a comprehensive and long-term approach to corruption prevention, including through the co-operation activities of the Congress of which this Handbook is just an example, which sends a clear signal of our intention to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regard to public governance are changing. We are witnessing a growing mistrust toward public institutions and their representatives. In this regard, effective mechanisms for the implementation and compliance with standards of conduct are essential to renew the confidence in public administration. Preventing corruption, reducing its risks, and developing effective, accountable and transparent institutions at all levels are key components of just and inclusive societies.

With this in mind, this *Handbook on transparency and citizen participation in Georgia* is aimed at local authorities, mayors, local councillors and civil servants, to support them in their efforts to improve the quality of local governance in their villages, towns and cities. The *Handbook* will provide local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and national legislation, and providing case-law examples and best practices which it recommends be applied and promoted by all Georgian local authorities.



Andreas Kiefer

Secretary General

Congress of Local and Regional Authorities

PURPOSE AND STRUCTURE OF THE HANDBOOK

Transparency and citizen participation are key tools in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as to ensure that their own needs and views are taken into account in the decision-making process.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

This *Handbook on Transparency and Citizen Participation in Georgia* aims to support local authorities in their efforts to improve the quality of local governance. It provides them with practical guidance on transparency and citizen participation, based on the Council of Europe principles and with reference to the general international standards and particular national legislation.

To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the *Handbook on Transparency and Citizen Participation in Georgia* includes country-specific information about anti-corruption legislation, transparency policies and citizen participation mechanisms. In particular, the user of this *Handbook* is provided with a straightforward look at relevant national legislation, a concise assessment of the most prevalent corruption risks, and a set of best practices to introduce and implement transparency and citizen participation mechanisms.

The *Handbook* is structured in four main chapters:

■ CHAPTER 2 – Ethics and Public Accountability

This chapter highlights the importance and challenges of ethics and public accountability in Georgia. Moreover, it is emphasised how essential they are for an effective, transparent and participatory governance.

■ CHAPTER 3 – Corruption Risks

This chapter introduces the most common corruption risks identified in Georgia and outlines relevant international anti-corruption standards, along with the national legal framework for each form of corruption. In addition, this chapter is supported with examples of case law related to each corruption risk.

■ CHAPTER 4 – Transparency

This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. Each mechanism includes an

introductory description and an outline of international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to enhance transparency.

■ **CHAPTER 5 – Citizen Participation**

This chapter introduces five citizen participation mechanisms, which have been selected to represent the diversity of approaches to citizen participation. Following the same structure as in the previous chapter, it includes an introductory description for each mechanism and outlines relevant international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to foster and improve citizen participation.

ETHICS AND PUBLIC ACCOUNTABILITY

2.1. INTERNATIONAL CONTEXT

Ethics and public accountability are essential features of an effective local or regional authority. They refer to the culture, processes, structures and rules that ensure those in public office act in the wider public interest, rather than their own self-interest. They are an essential feature of good governance, and apply equally to organisations in the private and civil society sectors, as well as public authorities.

Ethics are the rules that define the conduct of public officials¹ in order to ensure that the public is treated fairly and with equality. Ethics can help officials make better decisions in the public interest, as well as help people evaluate the decisions taken on their behalf by public officials.

Public accountability ensures that officials are openly answerable for the decisions they are taking on behalf of the public.

In the absence of ethics and public accountability, corruption and malpractice is able to thrive. As outlined in the following section, corruption is damaging to individuals, society, the economy and government in a number of respects. Ethics and public accountability can help curb the worst excesses of power, and encourage more responsible and fairer decision making by local authorities.

Even where corruption is not endemic, the absence of ethics and public accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between both ethics and public accountability is complex, when done well, they can help to build and strengthen trust between the public and government.

On the other hand, ethics and public accountability can also play a much more positive role. They recognise that citizens and other stakeholders have much value to offer in decision making. They can help to ensure that their personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Finally, effective ethics and public accountability are also key elements of improving public services. This is based on the idea that public services that are more responsive and accountable to people - and benefit from their insights, ideas, energy and scrutiny - will work better for people.

Taken together, ethics and public accountability help to ensure that decision making and resource allocation are fair, efficient and effective, which in turn helps to enable a flourishing democracy, economy and society.

Transparency and citizen participation are important mechanisms for promoting ethics

and public accountability in national and local government. A recent report for the European Committee of the Regions on “Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern Partnership Countries” found that lack of transparency was the main vulnerability in all of the cases assessed.² This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

2.2. NATIONAL CONTEXT

Over the past 13 years, Georgia has made significant progress in the area of good governance by modernising its public institutions, by improving public service delivery both on the central and local levels and by combating corruption that was dominating all branches of the Government. In 2005, Georgia ranked 130 out of 158 on the Transparency International Corruption Perception Index, while in 2016 Georgia holds 44th position on the same survey.³

The positive impact of extensive anticorruption measures has manifested in the increased trust of local and international businesses in the Georgian economy, which has led to increased welfare of the public and worldwide recognition of Georgia as the regional leader of democratic reforms.

The main entry points of the early governance reforms were the patrol police reform, tax collection system reform, customs system reform, business deregulation and public/civil registry reform. Modernisation of the above-mentioned areas has led to an immediate decrease and subsequent eradication of petty corruption. Nevertheless, it has been only a few years since the Government introduced long-term policy solutions to transform the civil service and increase public accountability on all levels of the government. In the past, more attention was given towards the active enforcement of penal legislation related to public accountability. Current efforts, on the other hand, are focused on prevention of corruption, the increase of transparency, prevention of conflicts of interest, reform of the civil service, and whistle-blower protection. In this regard, the National Anti-Corruption Strategy and Action Plan are important instruments for potentially improving the ethics, transparency and accountability of state institutions.

CORRUPTION RISKS

In the absence of ethics and public accountability, corruption and malpractice is allowed to thrive, which undermines the foundations of a peaceful, prosperous and just society.

Corruption is a major challenge to democracy and the rule of law. It results in decisions and resource allocation that do not reflect the interests of the public and concentrates political power in the hands of the few. It in turn causes political leaders and institutions to lose legitimacy and public trust, which reduces their ability to govern.

Corruption also causes local and regional authorities to be inefficient and ineffective in exercising their duties. It results in decisions being made not on the basis of what is in the interests of society at large, but what is in the self-interests of the decision maker and their associates. It leads to public money being misspent, with contracts being awarded to inferior providers and budgets being misallocated. At its worst, it enables public officials to misappropriate money and resources, using their position to get rich to the cost of those they have a duty to serve.

Corruption can also result in public officials being appointed on the basis of favouritism rather than merit, meaning that local and regional authorities do not have access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces even more the efficiency and effectiveness of the administration.

Inefficient and ineffective organisations, staffed by individuals who gained their position on the basis of something other than merit, result in poor quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, it results in significant human costs, including poverty, deaths, illness, and restricted life chances.

Finally, corruption harms economic development. It leads to public money being directed to uncompetitive businesses, rather than those that offer more innovative or cheaper products and services. Uncompetitive markets, coupled with the negative impact of corruption on the quality of local public services and infrastructure, means that businesses do not have a solid foundation (of staff, security, investment, etc.) on which to build. In the end, this may cause private and international investors to avoid investing in an area.

3.1. BRIBERY

Bribery is the promise, offer, acceptance or solicitation of a personal advantage (e.g. gift, loan, reward, favour, etc.) in exchange for an unethical or illegal action. Bribery results in decisions not being taken in the public interest, which reduces public trust in institutions and leads to poor public services.

International standards

The following international conventions and standards relate to bribery:

- The **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**⁴ establishes legally-binding standards to criminalise bribery of foreign public officials in international business transactions. It is the first and only international anti-corruption instrument focused on the 'supply side' of the bribery transaction.
- The **International Anti-Bribery Standard 37001**⁵ specifies a series of measures to help organisations prevent, detect and address bribery.
- The **OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance**⁶ which supports the convention on combating bribery.

National context

In 2016, 72 instances of receiving/requesting a bribe were registered by law-enforcement agencies and 27 (37.5 %) were successfully pursued/prosecuted, compared with 126 registered and 70 (55.6%) prosecuted in 2015. As for offering/giving a bribe, 16 cases were registered and six (37.5 %) were successfully pursued/prosecuted in 2016, compared with seven registered and one (14.3%) prosecuted in 2015.⁷ Numbers demonstrate that both successful investigation and prosecution of bribery have decreased from 2015 to 2016, which underlines the necessity for instituting more intensive measures for enforcement of anti-corruption legislation.

The share of the general population that had to pay a bribe during the past 12 months was 4% and 12% of Georgians believe that corruption is among the top three most important problems in the country.⁸

National legislation

Crimes related to public office are regulated by Chapter 39 of the Criminal Code of Georgia. According to Article 338 of the Code, taking/requesting a bribe in a monetary or other form is punishable by imprisonment of six to 15 years, depending on the gravity and circumstances of the crime. It is important to observe that in this article aggravating circumstances are considered to be the following: holding high public office, taking a

large sum (over GEL 10 000 (€3 500)), group intent, repetition of the offence, multiple instances, receiving a bribe through extortion or by an organised group.

According to Article 339 of the Criminal Code, the punishment for offering/giving a bribe ranges from community service to imprisonment of up to eight years, also depending on aggravating circumstances such as facilitating another criminal act or committing a group act.

Examples of case law

In February 2015, representatives of the Anti-Corruption Agency of the State Security Service arrested the Chief of Staff of the Department of Municipal Supervision of Tbilisi for requesting a bribe of €150 000 from a representative of a private company. In particular, the accused individual contacted a representative of a private company and offered to use his authority to obtain a hotel building permit, deconstruction of an existing building and other forms of patronage related to the execution of a construction project in the central part of the city. The person in question was sentenced to imprisonment of 11 years.⁹

3.2. CONFLICT OF INTEREST

A conflict of interest is where an individual is in a position to derive personal benefits from the actions or decisions they take in an official capacity. Conflicts of interest – either if they are actual, perceived or potential¹⁰ result in decisions that are, or are considered to be, unfair and self-interested. This reduces public trust in institutions and results in worse outcomes for the public.

International standards

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**¹¹ covers the general issues normally thought to be necessary for avoiding such conflicts.
- The **OECD's Guidelines for Managing Conflict of Interest in the Public Service**¹² identify principles and standards for developing policies. Its **Checklist for Enhancing Integrity in Public Procurement**¹³ provides a guide for promoting integrity in procurement.

Conflict of interest is also covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**¹⁴ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.¹⁵

- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**¹⁶ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**¹⁷ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**¹⁸ aims to fight corruption involving officials from the EU or its Member States.
- The **Council of Europe’s Conflicts of Interest at Local and Regional Level report**¹⁹ looks at the effectiveness of Conflict of Interest rules, policies and standards at the subnational level.

National context

Although conflict of interest represents a significant challenge for the Georgian integrity system, there is practically no administrative data related to such instances. Civil society organisations and investigative media often display cases of possible conflict of interest; however, law enforcement agencies fail to follow up on such cases.

Although there are no public perception surveys related to conflict of interest in Georgia, there has been significant public interest to address these challenges. Specifically, the scope of Law on the Conflict of Interest and Corruption in Public Institutions has been expanded over the years and now includes various representatives of central, municipal, legislative, judicial and independent public agencies. Besides mayors, their deputies and members of City Councils are also regarded as public officials according to the Local Self-Government Code,²⁰ which makes them subject to the regulations of the Law on the Conflict of Interest and Corruption in Public Institutions.

In addition, in 2017 a monitoring mechanism of asset declarations was established. The electronic system for randomly selecting declarations is being developed and the first commission for monitoring of asset declarations will be set up in December 2017.

National legislation

In Georgia there is a special Law on Conflict of Interest and Corruption in Public Institutions. The scope of the law extends to declaration of economic interests, as well as whistle-blower protection, receiving gifts, principles of public ethics, conflict of interests and corruption. Sanctions envisaged by this law are only administrative and include monetary fines (up to GEL 1 000 (€330)) and disciplinary actions such as warning and contract termination. Conflict of interests of Georgian public officials is monitored by the Civil Service Bureau through a declaration monitoring system.

The Criminal Code of Georgia also provides for sanctions for accepting illegal gifts by a public official. According to Article 340 of the Code, such actions are punishable by a fine, community service of up to 100 hours or imprisonment of up to two years.

Example of case law

In the recent years, there have been no judicial proceedings related to conflict of interest of public officials. Still, there are examples of alleged conflict of interest. Such reported cases include, for example, when a Member of the Parliament allegedly purchased (through an auction) real estate from a municipality that belongs to a district represented by him in the legislative body. In addition, cases reported by media and local civil society organisations include instances when extended family members (cousins, brothers, in-laws) of the municipal executives successfully participate in public procurement tenders announced by their subordinate agencies.

In addition, civil society organisations have reported several alleged cases of conflict of interest in municipal public institutions. For example, an individual has entered into a contract with the City Hall and was appointed as the Head of the Infrastructure, Transport and Amenities Department before the expiration of the agreement. Although the person in question has received payment one day before the appointment to the above-mentioned position, his contract was still valid and there was a two-year guarantee for the rendered service.²¹

3.3. EMBEZZLEMENT

Embezzlement is the illegal appropriation of money, goods or other resources by an official to whom they have been entrusted. This results in the loss of public money, which reduces the capacity of authorities to act in the interests of the public, resulting in worse services and outcomes for people. It also undermines public trust in government.

International standards

As one type of corruption, embezzlement is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**²² is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²³
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**²⁴ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**²⁵ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**²⁶ aims to fight corruption involving officials from the EU or its Member States.

National context

According to data gathered by the Institute for Development of Freedom of Information (IDFI), embezzlement was the most frequently committed financial crime in Georgia, with 2 155 cases recorded from 2004 to 2014.²⁷ During the mentioned period, the largest number of embezzlement cases was recorded in 2006, with 386 cases. Afterwards, this number decreased by approximately 50% and later increased in 2012 to 219 registered instances. Public perceptions related to embezzlement have not yet been researched in Georgia.

In 2017, house arrest from six months to three years was introduced for embezzlement without aggravating circumstances.

National legislation

Georgian legislation defines embezzlement as illegal appropriation of property belonging to others. Although the Criminal Code of Georgia does not differentiate embezzlement by a public official or private person, the sanctions for this violation are stricter for public officials. According to Paragraph 2 of the Code, embezzlement committed by a public official is punishable by a fine or imprisonment of four to seven years, whereas such acts committed by a private person are punishable by imprisonment of three to five years or house arrest of up to two years.

Example of case law

The former Mayor of Tbilisi was found guilty for embezzlement and was sentenced to imprisonment of 4.5 years. The former Mayor was accused of using municipal finances to fund activists of his own political party. In particular, it was alleged that he used GEL 4.1 million (€1.3 million) to fund party activists through more than 760 fictitious employment positions. According to the indictment, no actual work was performed for the above-mentioned positions and the funds were used to finance the salaries of party activists. The same indictment included another episode of embezzlement for which the above-mentioned individual and a former Minister of Defense were found not guilty. The alleged crime was related to the sale and re-purchase of land in the center of Tbilisi. In particular, more than 43 000 square meters of land were sold by the City Hall for €5 million in 2006 and was re-purchased for €14 million in 2008.²⁸

3.4. FRAUD

Fraud is the use of deceit in order to gain an unfair or illegal advantage. Fraud erodes public trust in government and reduces the capacity of government to act. It often results in the loss of public money, which harms public services and the ability of governments to address the public's needs and aspirations.

International standards

As one type of corruption, fraud is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**²⁹ is the only legally-binding universal anti-corruption instrument.

It is supported by this **Technical Guide to the Convention**.³⁰

- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**³¹ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.

- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**³² defines common international rules for effective remedies for persons affected by corruption.

- The **European Union's Convention against Corruption Involving Officials**³³ aims to fight corruption involving officials from the EU or its Member States.

National context

In 2014 there have been 974 registered cases of fraud, with charges brought against individuals in 639 cases. Registered cases of fraud decreased by 12.22% in 2015, with a total of 855 registered instances. Despite the decrease of registered cases in 2015, charges were put forward in only 477 cases.³⁴

There are no publicly known efforts undertaken by law enforcement agencies to prevent instances of fraud. In addition, the 2016-2017 National Anti-Corruption Action Plan does not include any activities related to combating fraud.

National legislation

According to Article 180 of the Criminal Code of Georgia, fraud is defined as taking possession of property or such rights belonging to another, with a purpose of illegal appropriation. Criminal sanctions for fraud include a fine, community service of up to 200 hours, house arrest and imprisonment of up to nine years, depending on the gravity of the case.

There are several law enforcement agencies that have jurisdiction over pursuing instances of fraud, including the Ministry of Interior (Investigative and criminal divisions), Investigation Service of the Ministry of Finance, and Office of the Prosecutor of Georgia.

Example of case law

On 6 February 2017, a high-ranking military logistics officer was found guilty for misappropriation on several occasions. In particular, it was alleged that together with another individual the person in question sold/transferred 67 different auto-mechanical spare parts belonging to the state (with an estimated price of GEL 20 680 (€7 000) to unknown individuals. Other episodes of alleged misappropriation included, among others, construction parts, reservoirs, and marine vessel spare parts. The individual was initially found guilty for misappropriation and embezzlement; however, the Kutaisi Court of Appeals overturned the decision and replaced it with fraud, resulting in a GEL 20 000 (€6 500) fine.³⁵

3.5. NEPOTISM

Nepotism is the exploitation of an official position to unfairly benefit a family member or friend (e.g. through giving a job or favour). Nepotism, and other forms of favouritism, results in local and regional authorities not having access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces the efficiency and effectiveness of the administration.

International standards

As one type of corruption, nepotism is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**³⁶ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.³⁷
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**³⁸ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**³⁹ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**⁴⁰ aims to fight corruption involving officials from the EU or its Member States.

- The **Council of Europe's Governance Committee report, Nepotism (Recruitment of Staff)**⁴¹ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of local and regional governments.

National context

Nepotism is a significant challenge present in a majority of public institutions in Georgia. In most of the cases, public officials employ their relatives in various public institutions both at the central and local levels. Civil society organisations often report specific cases where family and friends of high-level public officials are employed in public agencies. According to a 2015 survey, 68% of interviewed individuals think that nepotism is fully or partially unjustifiable. Based on the same survey, 25% of respondents think that nepotism is a frequent phenomenon in Georgia.⁴²

National legislation

Currently there is no legislation that would explicitly prohibit or criminalise nepotism. Nevertheless, the necessity of fair hiring practices is stipulated in the Law on the Civil Service of Georgia⁴³ and can also be derived from the Code of Conduct regulation adopted by Government Decree in 2017.⁴⁴ Although there are no specifically prescribed penalties for not complying with these requirements, Transparency International Georgia has registered a legislative proposal in the Parliament of Georgia, requesting criminalisation of nepotism.

Example of case law

Relatives of several members of the parliament were employed at the Georgian National Communications Commission (GNCC) after the members of the parliament assumed office.⁴⁵ Transparency International Georgia has identified around 70 cases of alleged nepotism in municipalities of Georgia – spouses, children and parents of local public officials were employed either inside the same public institution or in municipal agencies related to the public officials. For example, in 2015, the wife of a deputy mayor of a municipality was appointed as the Head of the Legal Department of the City Council, after the above-mentioned deputy assumed office in 2014.⁴⁶

TRANSPARENCY

4.1. ACCESS TO INFORMATION

Access to information is the legal right for citizens to request and receive information from public authorities. It is often enacted by Freedom of Information legislation.

Access to information supports accountability along with informed public participation in decisions, and is therefore fundamental for the effective functioning of democracies.

International standards

Access to information is a fundamental component of a number of the conventions and standards against corruption listed elsewhere in this handbook. It also underpins a number of key UN human rights documents. The following specifically relate to Access to Information:

- The **Council of Europe's Convention on Access to Official Documents**⁴⁷ affirms an enforceable right to information.
- The **Aarhus Convention**⁴⁸ grants rights, including access to information, in decisions concerning the environment.

National context

Access to information is a right that is actively enforced by individuals and civil society organisations in Georgia. The right to access public information is enshrined both in Article 41 of the Constitution of Georgia⁴⁹ and in Chapter III of the General Administrative Code of Georgia. Access to information is one of the most important transparency tools that currently exist in Georgia; however, according to a public services satisfaction survey, only 5% of citizens had requested information from a public institution in 2015.⁵⁰

National legislation

Article 41 of the Constitution of Georgia states that every citizen of Georgia has a right to access official documents stored in public institutions, if it does not contain secret, personal or commercial information. Chapter III of the General Administrative Code of Georgia outlines procedures for requesting information from a public agency (both central and municipal). According to the Code, public information has to be disclosed immediately or no later than 10 calendar days, in cases where it requires additional efforts. If the Freedom of Information (FOI) request is denied, individuals have a right to appeal the decision internally and afterwards to the court within 30 days of receiving the decision.

In 2013 and 2014, central and municipal public agencies introduced regulations for proactive disclosure of public information, outlining the list of necessary information that has to be disclosed (on the webpage of the agency) and periodically renewed.

National guidelines

Currently, there are no unified official guidelines on access to information in Georgia. Although websites of individual public agencies provide brief instructions on how to request public information, they mainly duplicate the requirements of the law. Nevertheless, such guidelines have been produced by civil society and they provide citizens with information on the nature of public information, request procedures, legal means of protecting the right and practical recommendations on access to information.⁵¹ Some of the recommendations of the guidelines include:

- Adopting internal regulations for the management of public information;
- Installation of electronic management systems;
- Establishment of electronic systems enabling electronic request of public information;
- Analysis of information request trends; and,
- Increasing the role of Freedom of Information Officers in public institutions.

Examples of best practice

There are a number of public institutions that score consistently well in the rating of access to public information. For several years, the Parliament of Georgia has been leading the rating with a 100% access to public information. According to the 2016 report, out of 285 public institutions, 55 agencies received a 100% score in the rating. The City Hall of the Municipality of Mtskheta has received the highest scores for the number of requests, completeness of the response and time compliance.⁵² In a similar report that evaluated the level and quality of access to information over an extended period of time, the Dmanisi Municipality City Hall was awarded as one of the most accountable public institutions, providing consistent high-quality access to information between 2010 and 2015. Throughout the above-mentioned timeframe, a total of 81 Freedom of Information Requests were sent to Dmanisi City Hall and complete responses were produced in all cases. There were only 17 instances when the Dmanisi City Hall did not meet the required 10-day timeframe.

4.2. OPEN DATA

Open data is the publication of data and information in a format that may be freely used, modified and shared. The OECD states that open data is «a set of policies that promote transparency, accountability and value creation by making government data available to all». By making data generated through the activities of public bodies available, government becomes more transparent and accountable to citizens. It also supports business growth and the development of services centred on citizens.

International standards

Open data is a relatively new phenomenon without officially endorsed standards. However, a number of useful guidelines exist:

- The **Congress of Local and Regional Authorities of the Council of Europe's recommendation on Open Data for Better Public Services**⁵³ explains its importance for improving local democracy.
- The **United Nations Guidelines on Open Government Data for Citizen Engagement**⁵⁴ introduce policy guidelines and good practice recommendations.
- This **World Bank Toolkit**⁵⁵ starts from the basics, through to planning and implement, as well as avoiding common pitfalls.
- The **Five Star Open Data Deployment Scheme**⁵⁶ provides five steps to fully opening data, explaining the costs and benefits of each.
- The **International Open Data Charter**⁵⁷ sets out six principles for open, timely and interoperable government data.

National context

In Georgia, open data is generated by both public institutions and civil society organisations. Nevertheless, production of open data is still fragmented, with limited institutions and data available in a machine-readable format. The Government of Georgia has taken some steps towards ensuring the availability of open data, for example, the establishment of an open data portal.⁵⁸ The portal contains the information of various public institutions in an open data format, including on procurement, public spending, and policy. Open data has started to enable civil society and citizens to use the information for analytical purposes and to create innovative tools for broader public use; however, both the availability and awareness of open data is low, which limits its utilization. The portal is administered by a subordinate agency of the Ministry of Justice, the LEPL Data Exchange Agency.

National legislation

Currently, there is no national or local legislation regarding the production and use of open data in Georgia; however, this does not mean that local authorities need a legal framework to start producing information in an open data format. Developing information in the form of open data is encouraged for greater transparency of local public institutions and does not rely on regulations.

National guidelines

There are no guidelines on open data that are produced by Georgian public institutions. Nevertheless, civil society organisations are working actively to increase availability of open data. In 2016, research on Access to Open Data in Georgia⁵⁹ examined the availability and quality of open data in Georgia. In particular, it is recommended for local public institutions to:

- Shape and manage databases and registries in a way that will enable their publication on the open data portal;
- Ensure open data publication of databases related to education, social affairs, zoning, recreation, transportation, etc.;
- Increase the availability of open data through the national open data portal; and,
- Develop an internal manual and training module about the production and publication of open data.

Examples of best practice

Development and launching of the open data portal – data.gov.ge – can be regarded as a national best practice, since it provides available open data in a unified space and encourages both central and local public institutions to contribute to the portal. The impact of the portal has not yet been assessed; however, in order to increase transparency and support innovation, it is vital for local authorities to participate in the central efforts of producing open data. Some of the information available on municipal web-portals is available in open data formats – XML, CSV, Excel, API; however, it is vital to ensure that all information that is proactively published by the municipality is available in an open data form. In addition, it would be useful to conduct an initial assessment of what information can be made available for open data publication.

4.3. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICT OF INTEREST

Disclosure is the act of routinely publishing certain information, sometimes required by law. It can support anti-corruption measures by requiring the routine publication of assets and declarations of conflict of interest, for example. It can also be for more positive reasons, such as to support policy making, or by ensuring that the public are better informed and therefore able to contribute more effectively.

International standards

Disclosure is an important element in the conventions and standards against corruption listed elsewhere in this handbook. Of particular relevance are:

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**⁶⁰ requires private interests to be declared.
- The **OECD's Managing Conflict of Interest in Public Service: Guidelines and Country Experiences**⁶¹ provides practical instruments for modernising conflict-of-interest policies.
- The **OECD's Asset Declarations for Public Officials: A Tool to Prevent Corruption**⁶² identifies the key elements of asset declaration systems.

National context

Disclosure of asset declarations is a mechanism that is important for the prevention of corruption and conflict of interests in Georgia. A wide range of public officials submit asset declarations, which are publicly available on a specially designed website.⁶³ Citizens are able to look at the financial interests of public officials and provide public oversight on potential cases of conflict.

National legislation

The Law on the Conflict of Interest and Corruption in Public Service requires public officials to submit asset declarations annually and for certain positions even after leaving public office. The list of the officials required to submit asset declarations is provided in the law itself.⁶⁴

In 2017, a system for monitoring asset declarations was established through a government decree and includes three kinds of monitoring:

- Random selection of declarations by a machine;
- Selection of "high risk" declarations by a special committee (which also includes non-governmental organisations) established annually under the Civil Service Bureau; and,
- Written request including reasonable doubt about a possible infraction.

There are two kinds of penalties for violating the rules on declaration submission. The first sanction is a fine of GEL 1 000 (€330) for a declaration that contains a mistake or omission. In the instance of intentionally omitting information from the asset declaration or entering incorrect information, there are sanctions prescribed by the Criminal Code of Georgia – a fine, community service of up to 200 hours and restriction from holding public office for up to three years.

The Civil Service Bureau of Georgia is the agency that is entrusted with the administration, publication and monitoring of asset declarations.

National guidelines

The Law on the Conflict of Interest and Corruption itself provides instructions on how public officials must submit the declarations. Within two months of assuming office, public officials are required to submit asset declarations to the Civil Service Bureau, including assets and financial interests belonging to the officials and the members of their families – real estate, movable assets exceeding GEL 10 000 (€3 300), stocks, bank deposits, cash exceeding GEL 4 000 (€1 330), contractual obligations/receivables exceeding GEL 3 000 (€1 000) and the names of the parties to the contract, gifts received by the official or his/her family members, and income and expenditures exceeding GEL 1 500 (€500). Officials must re-submit declarations annually and one year after leaving office. The instructions for the monitoring of asset declarations are also adopted by Government Decree and outline detailed procedures on how to monitor the declarations. In addition, the Civil Service Bureau has published a comparative research on the Rules of Submitting Asset Declarations in the United States and Georgia.⁶⁵

Examples of best practice

Although there are no specific best practices related to the disclosure of assets of public officials in any particular institution or municipality, the establishment of the monitoring system should certainly be regarded as one. Within the scope of the Open Government Partnership 2014-2015 National Action Plan,⁶⁶ the Civil Service Bureau of Georgia has developed a system for monitoring the asset declarations of public officials. Although asset declarations have been publicly available for a number of years, there was no mechanism that would enable the monitoring of their accuracy. The new mechanism guarantees broad oversight over the declarations and also gives civil society organisations and the public a possibility to participate in the process.⁶⁷ Although the results of the first monitoring will become public after the end of 2017, it can still be observed that public officials started filling out the declaration forms with greater caution. The monitoring mechanism is an innovative reform and this experience is new for a multitude of countries.

Despite the fact that asset declarations can be retrieved through a specific online portal, it would be a sign of greater accountability and transparency to publish the declarations of municipal public official on the webpages of the City Hall and City Council – this would provide the public with an opportunity to directly look into the asset declarations of public officials of the local self-government.

4.4. EXTERNAL AUDIT

External audit is the regular, independent scrutiny of accounts and financial information to ensure that public money is used appropriately and effectively. External audits are undertaken in accordance with the relevant laws and rules of the country to support those external to government to hold it to account. External audit can also look beyond finances to assessing the performance of government against its own objectives, or in providing programmes and services.

International standards

- The **International Public Sector Accounting Standards**⁶⁸ focus on the accounting, auditing, and financial reporting needs of national, regional, and local governments, related governmental agencies, and the constituencies they serve.
- The **International Standards of Supreme Audit Institutions**⁶⁹ website contains a complete collection of professional standards and best practice guidelines for public sector auditors.
- A number of the conventions and standards for combatting corruption include provisions and clauses relating to external audit.

National context

The State Audit Office of Georgia (SAO) is an institutionally independent public agency that provides oversight over the use of public funds and the efficiency of the work of public institutions. The functional and financial independence of the SAO are guaranteed under the law and it provides significant input in ensuring transparency, accountability and integrity of public institutions.

National legislation

The functional and financial independence of the SAO is guaranteed under Article 94 of the constitutions. In addition, the work of the SAO is regulated by the Law of Georgia on the State Audit Office, which sets the mandate, responsibility and organisational structure of the SAO.⁷⁰ Apart from examining the spending of public funds vis-à-vis all public institutions (including municipal public institutions) and state-owned enterprises in Georgia, the mandate of the SAO also includes the monitoring of political party financing. The SAO is only entrusted with an oversight function and does not have a mandate to put forward any sanctions. Nevertheless, under Article 24 of the Law on the State Audit Office, it has an obligation to immediately report possible criminal activity discovered during the audit process.

National guidelines

The SAO regularly publishes best practice audit guidelines for public institutions, as well as for the conducting the audit itself. Generally, the guidelines produced by SAO do not have a legally binding nature, but there are some regulations that are enshrined in the Decree of the General Auditor – for example, the Code of Ethics of State Audit Office Auditors.⁷¹ In addition, SAO publishes guidelines on the development of budgets, which can be useful for local self-governments during the preparation of the municipal budget.⁷² Recommendations of the above-mentioned guideline cover results-based budgeting, how to link specific targets to the budget, formula-funding, and agency-level budgetary performance incentives. These tools and recommendations can be used to improve the structure and quality of municipal budgets, which will later have a positive effect during audits conducted by SAO.

Examples of best practice

Since the SAO is the only external institution that monitors the work and spending of central and local public institutions, it makes significant effort to guarantee citizen participation, transparency and accountability. The best practice established by the SAO in the recent years is the launch of an online portal for citizens and institutions.⁷³ The online platform provides interactive information about the reports of the SAO and provides citizens with the opportunity to utilize the data produced by the institution. In addition, the portal provides different modules for public participation, both in the process of

oversight and during the planning of the budget. The impact of this tool is large in the area of cultivating public involvement in the budgetary process. It can serve as a good tool to compare incomes and expenditures of various municipalities of Georgia, providing citizens and municipal officials/employees with opportunities to reflect on the budget, financial standing and efficiency of the local self-government unit.

4.5. CODE OF CONDUCT

A code of conduct sets out specific standards of professional behaviour expected in a host of situations and provides public officials with guidance for handling them. In addition, codes of conduct bring in transparency and public accountability in governmental operations.

Codes of conduct are often confused with codes of ethics, which establish basic principles to which public servants must abide, such as integrity, selflessness and openness, among others. A code of conduct applies and implements the code of ethics to the particular circumstances of an institution.

Well-designed codes of conduct and ethics will help meet the growing expectations from the public, business leaders and civil society, and places an onus on governments to ensure high ethical standards amongst public officials and elected representatives. As such, they can support the development of trust between the public and government institutions and officials.

International standards

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**⁷⁴ and the **European Code of Conduct for the political integrity of local and regional elected representatives**⁷⁵ are the reference texts for local and regional authorities in Europe for ensuring political integrity.
- This **OECD paper on Implementing Effective Ethics Standards in Government and the Civil Service**⁷⁶ provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.
- The **Council of Europe's Abridged Handbook on Public Ethics at Local Level**⁷⁷ provides a high-level overview of good practice in public ethics.

National context

The development of the public ethics system is closely linked with the civil service reform in Georgia, which began in 2014 after the adoption of the Civil Service Reform Concept. One of the key areas of the reform was the establishment of a code of ethics⁷⁸ for public employees, which was adopted by the Decree of the Government on 20 April 2017. The Code regulates a multitude of issues from political neutrality to accountability and gifting. Although the Code adequately addresses the challenges that exist in Georgian public institutions, there is low awareness about what it includes, hindering its impact.

National legislation

In addition to some ethics provisions in the Law of Georgia on Public Service, the main regulation on ethics in Georgia is the Decree of the Government on Ethics and Rules of Conduct in a Public Institution. The law is applicable to public employees (both central and municipal), which includes career public servants, as well as contract-based employees. According to Article 85 of the Law on Civil Service, violation of the code of ethics is grounds for disciplinary action – resulting in a warning, salary deduction and contract termination. Since the code of ethics is newly adopted, awareness among public employees is low and needs to increase in order to ensure greater accountability and broader application of the law.

National guidelines

A Guideline to Ethics and Rules of Conduct of Public Employees has been developed by the Civil Service Bureau of Georgia in 2015.⁷⁹ It contains practical information on cases and regulations related to ethics, including organisational culture, revolving door, nepotism, public procurement, disciplinary sanctions, public oversight, and whistleblower protection. Although the document has not been adopted by an official legal act, it serves as a useful practical tool for employees. After the adoption of a new code of ethics, it is necessary to update the guideline based on the novelties of the code.

Examples of best practice

A project implemented by Tianeti Municipality⁸⁰ has implemented several activities related to ethics, transparency and citizen engagement. A series of trainings were organised for civil servants, specifically on ethical behaviour and governance. As a result, “two-way” communication with citizens is introduced to encourage their participation in decision-making processes. A number of “post boxes” in all administrative units were installed, where citizens were encouraged to submit concerns and proposals to the mayor who takes these suggestions into consideration for future municipal actions. This resulted in the adoption of the code of ethics, which was developed in consultation with citizens from all 12 administrative units of the municipality and introduced in the everyday work of the local authority.

CITIZEN PARTICIPATION

5.1. COMPLAINTS MECHANISMS

Complaints mechanisms allow citizens to provide feedback to public authorities on the standards of services they receive. They provide an important accountability mechanism which allow civil servants and elected officials to identify where public services are being delivered ineffectively or inefficiently. When such mechanisms deal with complaints quickly, they can help to create the conditions for increased trust. If used proactively, complaints mechanisms can also help governments to identify new ideas and increase citizen participation.

International standards

There are no specific international standards for complaints mechanisms relating to public services. However, there are a number of civil society guidelines and handbooks which are helpful. See for example:

- The **Danish Refugee Council's**⁸¹ handbook describes how to setup and manage a complaints mechanism.
- The **World Vision** overview of the tools and mechanisms used by development agencies to receive complaints.⁸²
- The **Transparency International** note on good practice in establishing community complaints mechanisms.⁸³

National context

Service delivery is one of the integral parts of the ongoing public administration reform in Georgia. It aims to increase the quality and access to public services both at the central and local levels. However, there are no established complaints mechanisms that would allow citizens to provide feedback on the quality of public services. All citizens have a possibility to communicate with public agencies but the complaints mechanism is not institutionalised. An established channel for complaints will have a large influence on the quality of public services and on the accountability of the institution itself. It will also serve as an opportunity for mayors to tailor the services of the municipal institution to the needs of the citizens.

National legislation

There is no national or internal regulation on complaints mechanisms for services provided by public institutions; however, it is not necessary to have national legislation

in order to establish simple and sustainable tools that would provide citizens with a possibility to provide their feedback on the delivery of public services. If an effective mechanism is developed in the municipality, it can have a positive effect on the level and quality of public participation, since citizens will have a chance to serve as agents of change and their desire to participate in local decision-making might increase.

National guidelines

No guidelines exist on providing feedback to citizens about the complaints voiced regarding public services; nevertheless, there is a growing necessity to establish a mechanism that provides a systemic approach for measuring public attitudes on municipal services. In this regard, the first steps taken by the municipality should include analysis of existing municipal services, establishment of internal regulations that provide for a possibility of a systematic overview and evaluation of service delivery and establishment of transparent and efficient communication tools, including electronic tools for engaging with citizens about their attitudes towards local service delivery quality. It is important to consider the development of a periodic survey system that would allow local public officials to analyze the service delivery system through public opinion research. Similar studies may include the Citizen Satisfaction Survey with Public Services in Georgia, commissioned by UNDP Georgia in 2015. Moreover, collaborating with partner municipalities can be a useful tool in bringing together resources and providing a comparative analysis of what mechanisms are working in which municipality.

Example of best practice

The 'Voice of the Customer', a project implemented by the Public Service Hall of Georgia,⁸⁴ allows citizens to express their feedback through feedback machines installed in the Public Service Halls of Georgia. Furthermore, the customer has a possibility to put forward a complaint using a special hotline. After receiving the feedback, special personnel of the agency review it and take necessary steps to resolve the problem and report back to the citizen about the complaint.

5.2. OPEN POLICY MAKING

Open policy making is a broad term describing policy development which is transparent and participatory. It describes a way of making policy and decisions which draw on the latest analytical tools and are interactive in nature. There is no one-way to do open policy making: different policy decisions will need different approaches.

International standards

Although there are no specific open policy making standards, the following provide a useful starting point:

- The **Council of Europe’s Guidelines for civil participation in political decision making**⁸⁵ sets out standards for engaging with citizens and civil society.
- The **OECD’s Guiding Principles**⁸⁶ support the development of a culture of openness.
- The **OECD’s Focus on Citizens: Public Engagement for Better Policy and Services**⁸⁷ explores how to put open policy making into practice.
- The **OECD’s Observatory of Public Sector Innovation**⁸⁸ lists useful toolkits and resources.
- The **Open Government Partnerships Guide**⁸⁹ and **Toolbox**⁹⁰ provide an extensive range of support.
- Both **Australia**⁹¹ and **the UK**⁹² have both produced useful **toolkits**.

National context

Policy-making at the central and local levels in Georgia has elements of transparency and citizen openness, but openness is often restricted to specific policy processes. Since a uniform legal framework for open policy-making is absent in Georgia; the quality of transparency and citizen participation is different in all central and local public institutions. Transparent, participatory and collaborative policy-making is critically important for the successful implementation of the Public Administration Reform and represents one of its key pillars. In recent years, open policy-making has demonstrated significant success, since both citizens and representatives of public institutions saw the benefit of co-creating policies together. In this regard, the Open Government Partnership (OGP) had a transformative effect on central and local policy-making approaches. After the OGP National Action Plans were successfully co-created by civil society and public institutions, it became evident that the experience could be applied to the local level, paving way to the OGP Sub-National Initiative, which aims to bring open government to the local level.

National legislation

At the central level, there is no legal framework for ensuring open policy-making; however, the Local Self-Government Code of Georgia has a specific chapter, which sets guarantees forms of open policy-making.⁹³ In particular, municipal public agencies and public officials are required to guarantee organisational and technical capacities that will enable citizens to meet with representatives of the municipality, to attend public hearings of municipal assemblies and to participate in the decision-making process. Some of the forms of open policy-making stipulated in the law are the establishment of Civic Advisory Councils, participation in the formation of budgetary priorities, and access to information.

National guidelines

The experience accumulated in OGP has demonstrated that there is a need for establishing a permanent open government mechanism inside the municipalities of Georgia. Taking into account the success that was achieved in piloting the first OGP Sub-National Action Plan in 2017, it became evident that open government initiatives work successfully not only on the central level but also on the local level. Therefore, it is recommended to use the existing citizen engagement infrastructure, such as the Council of Civil Advisors, to start developing local OGP action plans. These action plans are created with a strong emphasis on developing measurable commitments aimed at increasing transparency and accountability, preventing corruption, improving public service delivery and promoting innovation in local self-government.

Examples of best practice

In 2016, the Tbilisi City Hall became a member of the OGP Subnational Government Pilot Program and developed its first OGP Subnational Action plan for the first time.⁹⁴ Besides elaborating specific commitments for improving municipal services and increasing public participation in the decision-making process, the action plan was developed with broad participation of civil society organisations and the draft action plan was made available for public scrutiny.⁹⁵ The working group established within the Tbilisi City Hall united representatives of the municipality and civil society organisations. In the process of developing commitments for the action plan, civil society had a possibility to suggest potential actions for the action plan. After developing the initial concept, civil society and City Hall representatives actively collaborated on developing the contents of the action plan. The 2017 Tbilisi

Action Plan includes five commitments aimed at improving citizen engagement in the decision-making process, as well as transparency and accountability of local public institutions.

5.3. PARTICIPATORY BUDGETING

Participatory budgeting began in Porto Alegre, Brazil in the late 1980s and has spread worldwide. It provides a way for community members to have a direct say in how public money should be spent. It creates opportunities for engaging, educating, and empowering citizens. It can also pro-mote transparency, which in turn can help reduce inefficiency and corruption.

International standards

Although there are no specific standards for implementing participatory budgeting, the following provide a useful starting point:

- The **OECD Policy Brief No. 22**⁹⁶ provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.
- The **World Bank's book *Participatory Budgeting***⁹⁷ provides an overview of the underlying principles, analyses current practice and includes seven in-depth case studies.
- The **UN Habitat's 72 Frequently Asked Questions about Participatory Budgeting**⁹⁸ explores how to implement participatory budgeting.
- The **UK's Participatory Budgeting Unit has a useful list of resources and toolkits**.⁹⁹
- The **Subnational Open Budget Survey Questionnaire**¹⁰⁰ of the International Budget Partnership sets out a range of metrics for measuring the openness of local government budgets.
- The **Principles of Public Participation in Fiscal Policy**¹⁰¹ of the Global Initiative for Fiscal Transparency.

National context

Participatory budgeting is a vital tool in ensuring citizen engagement in the decision-making process; however, the executive, legislative and local branches of the government need to take an additional step in improving the legislative framework and infrastructure. Limited mechanisms for participatory budgeting currently exist in Georgia. Although the public is duly informed about the budgetary process and draft documents are systematically uploaded on the webpages of the Ministry of Finance and certain local authorities, participatory budgeting is still on a tokenistic level – meaning that the public is informed but does not have any power to influence decision-making. Meaningful participatory budgeting will increase the communication between the local government and the population and will also positively affect public trust in local institutions. Having a possibility to plan the local budget will cultivate public scrutiny in the spending process, which will improve public oversight and accountability in the municipality.

National legislation

Currently, there is no legislation that expressly regulates participatory budgeting in Georgia. The current system does not make it expressly possible to allocate a certain percentage of the budget according to the priorities identified by the citizens. Nevertheless, a formal regulation is not necessary to set-up a participatory budgeting system. The participation of the public in the budgetary process is made possible by public meetings/discussions during the elaboration of the budget. According to Article 91 of the Local Self-Government Code, the Mayor submits the draft budget to the City Assembly before 15 November of each year. The City Assembly then has a 5-day period to release the draft budget for public discussion and then returns the document to the

City Mayor with remarks before 25 November. The Mayor returns the revised budget to the City Assembly before 10 December, which is then adopted before the end of the year. According to the legislation, there are two windows, from 20 to 25 November and then from 10 to 31 December to publicly discuss and adopt the budget.¹⁰² Budgetary consultations and the above-mentioned timeframe are a useful opportunity for mayors to understand local needs and reflect the priorities of the citizens in the municipal budget annually.

National guidelines

With the support of development partners, the Ministry of Finance has developed a Citizen's Guide for the 2016 and 2017 state budgets. The guide includes important information about the budgetary process, main fiscal procedures in Georgia, state budget priorities, expenditures, and a midterm fiscal policy document overview. Although it has not been adopted through a legal act, the Citizen's Guide is an important source of information about the budgetary process in Georgia.¹⁰³

In addition, the Georgian Young Lawyer's Association has produced a research on local level participatory budgeting, with an overview of legislation and best practices in Poland and in Georgia.¹⁰⁴ In 2017, the Institute for Development of Freedom of Information also produced a case study of three municipalities, with a focus on public participation and the involvement of citizens in the budgetary process.¹⁰⁵ Some of the recommendations of the study include:

- Increasing the financial autonomy of the municipalities;
- Increasing the timeline of public budgetary consultations;
- Increasing the skills and knowledge of the local population and civil society organisations about the budgetary process;
- Elaboration of the budget with a gender aspect; and,
- Organising the consultation process in an organised and transparent form.

Since public attitudes and priorities vary among different groups and are also different from year to year, it is important to establish a sustainable, efficient and inclusive consultation process that has a foundation in internal regulations of the municipal public institutions.

Example of best practice

The Municipality of Marneuli has successfully implemented a participatory budgeting process.¹⁰⁶ Through the project, civil society, local government and 118 participants from 43 villages voiced their opinions on how to allocate 5% of the annual budget of the local government. Marneuli was the first municipality in Georgia that started to implement a participatory budgeting programme that allows citizens to allocate budgetary funds according to priorities identified by them. This project has demonstrated that citizens have an opportunity to influence decision-making at the local level and provided them with a possibility to address their concerns and ideas.

5.4. PUBLIC CONSULTATION

Public consultation is a formal, often legally required, process for citizens and other stakeholders to give their views at key stages of the policy process. It can be both online and offline, or a mixture of both. Its main goals are to improve efficiency, transparency and public involvement in important decisions. Done in a timely and effective way, public consultation will increase the quality of decision making, improve compliance, reduce enforcement costs and support greater public trust in decision making.

International standards

Although there are no specific standards for implementing public consultations, the following provide a useful starting point:

- The **OECD Background Document on Public Consultation**¹⁰⁷ defines consultation and provides a summary of consultation tools.
- The **Council of Europe's Guidelines for civil participation in political decision making**¹⁰⁸ set out the different types of civil participation in decision making.
- The **Council of Europe's Recommendation Rec(2001)19 on the participation of citizens in local public life**.¹⁰⁹

National context

Public consultations on policy documents are fragmented and take place in upon individual discretion of public agencies. Draft laws and policy documents are often distributed to representatives of civil society and different stakeholders; however, the quality and quantity varies even within the same public agencies. Public consultations are a vital tool for increasing transparency and accountability of public institutions and for improving civic oversight of public policy.

In municipalities, public consultations take place more often than on the central level; however, they do not have an institutionalised form and are not expressly supported by legislation. Consultations often take place regarding the elaboration of the local budget, implementation of a municipal infrastructural projects, etc.¹¹⁰

National legislation

There is no national or local legislation that would outline procedural requirements and principles for conducting public consultations. Nevertheless, there is a specific instance, which set requirements for conducting public consultations in cases of developing Environmental Impact Assessments (EIA). According to Article 32 of the Georgian Law on the Environmental Impact Code, public consultations are a mandatory component for conducting EIA and its findings should be annexed to the report.¹¹¹ On the local level,

the Local Self-Government Code mentions the Council of Civil Advisors, a consultative commission composed of at least 10 representatives of local civil society, businesses and active citizenry. The composition of the Council of Civil Advisors is determined by the mayor and should include at least one third female candidates. The mayor of the municipality is formally required to submit to the Council of Civil Advisors spatial planning documents, municipal budget draft, projects of important legal acts related to infrastructural development and social affairs.

National guidelines

There are no national guidelines with regard to conducting public consultations in Georgia; however, the Policy Planning System Reform Roadmap lists public consultations as one of the criteria for evaluating the quality of policy documents.¹¹²

It is important to activate existing tools of citizen participation and public consultations in the municipalities of Georgia. In particular, engaging the public in policy consultations can be enabled through the empowerment of the Council of Civil Advisors, increasing awareness about the petitions mechanism, increasing access to public information and through encouraging citizens to participate in the hearings of City Councils. It is recommended to adopt an internal vision/regulation that will be aimed at evaluating existing levels and practices of public consultations and developing specific commitments that will address the identified challenges.

Examples of best practice

The Council of Civil Advisors of the Batumi City Council has been very successful in fostering public participation in the work of the municipality. The Council of Advisors is composed of 19 members that are selected through broad consultations with civil society and local businesses. The work of the Council is facilitated by the Civil Society Institute, a non-governmental organisation active in the area of citizen engagement. The legal basis for the establishment of the Council is stipulated in Rules of Procedure of the Batumi City Council. The Council has a broad mandate and works on increasing citizen engagement in the local policy process, informing the public about the work of the municipality, and reviewing initiatives, legal acts and policy proposals. The establishment and operation of the above-mentioned Council is a good practice, since unlike other Councils it is very active and regularly holds meetings to discuss a wide range of issues. This Council is quite advanced and has its own webpage that has participatory elements and provides extensive information about its work.¹¹³

5.5. PUBLIC PETITIONS

Public petitions enable citizens to raise issues with public authorities. The number of signatures collected can indicate the level of support for the issues being raised. They aim either to raise the profile of the issue, or also to demand that specific actions are taken. Petitions are often inspired by civil society activity, but they are increasingly submitted through official, often online, platforms whereby petitions with a defined number of signatures will receive an official response.

International standards

- The **OECD's Promise and Problems of e-Democracy**¹¹⁴ provides a section on the value and challenges of establishing an online petitioning platform.

National context

Currently, petitions are not systematically submitted to central and local public institutions in Georgia. Nevertheless, citizens actively use unofficial online petitions instruments (e.g. www.manifest.ge) to mobilise. A legal framework exists for submitting petitions to local authorities; however, this mechanism is not actively used by the local population, due to low awareness of the legislation and lack of supporting electronic infrastructure.

National legislation

Articles 85 and 86 of the Local Self-Government Code also provide for a possibility to submit petitions to the City Council. The petition can be submitted by at least 1% (or less than 1% if determined by the City Council of a municipality) of the municipal population or the general assembly of a settlement. After receiving the petition, a special commission makes a decision on submitting it to the City Council, preparing a resolution of the municipal City Council or consider it unreasonable to discuss the petition. The petitions can be submitted in the form of a draft decree, general principles and outlines of a decree and a request for discussion of the issue during the City Council plenary meeting. Relevant procedures on submitting the petitions are prescribed in detail by the Local Self-Government Code. The Code also states that it is possible to submit electronic petitions; however, further procedures related to e-petitions are subject to the individual regulation of the City Councils.¹¹⁵

National guidelines

Due to the fact that both national and local petitions represent a novelty in the area of citizen engagement, there are limited national or local guidelines that would provide citizens with additional information on how to submit them. The practice related to the use of municipal petitions has been reviewed by civil society organisations.¹¹⁶

The research outlines practical and legal challenges that exist with regard to the use of petitions at the local level. Some of the recommendations related to improving the petitions system include:

Greater regard of regulations related to the submission of petitions. In particular, proper and timely information of the authors of the petitions and proactive disclosure of information related to the petitions;

In order to activate the petitions mechanism in the municipalities, increasing the awareness of the broader public with regard to the nature of petitions and procedures of their submission;

Through a decree of the Head of the City Council, determine a responsible person that will assist the public on procedures of initiating, registering and discussing petitions. The person in question should also be tasked with informing the interested parties about what decisions have been made on the petitions.

Example of best practice

Although the practice of initiating petitions varies in each municipality of Georgia, a total of 75 petitions have been registered from 2015 to 2017. Throughout this period, the largest amount of petitions was registered in the municipalities of Kobuleti (nine petitions), Khelvachauri and Kobuleti (eight petitions per each municipality). The Rules of Procedure of the City Council of Kobuleti Municipality outline detailed procedures for initiating, registering and reviewing petitions.

CONCLUSION

Local government plays a critical role for the well-being of citizens, delivering services, and providing the first point of contact between people and public administration. The proximity with citizens can help ensure that public authorities and services are truly responsive and accountable, improving people's lives and their trust and confidence in local institutions. However, the very qualities that make local and regional governments so important to citizens can also make it more prone to corruption.

Local governments in Eastern Europe are taking important strides towards more open and inclusive decision-making. As well as being important qualities of local democracy, transparency and civic participation can be tools to help deliver effective public services, combat and prevent corruption, and build citizens' trust in government.

The mechanisms outlined in this handbook present a variety of ways in which local and regional authorities can prevent corruption, reduce its risks, and develop effective and accountable institutions at all levels. Other reforms, such as protection of whistleblowers and support for independent media and civil society, are also critical to building open government, public ethics and accountability. The most effective approach to rooting out corruption is often through reporting by public officials, the media and civil society, who need to feel confident that they will be listened to and protected.

The Congress of Local and Regional Authorities of the Council of Europe is committed to supporting local governments in their efforts to improve the quality of local democracy, prevent corruption, increase ethics and public accountability, and promote transparency and citizen participation.

ENDNOTES

¹ For the purpose of this publication, the term “public officials” refers to elected representatives, public authorities and civil servants (either at local, regional or national level) who hold a legislative, administrative or judicial office, and to any person exercising a public function, including for a public agency or a state-owned enterprise.

² *Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern Partnership Countries*, European Committee of the Regions, 2017. Available at: <https://cor.europa.eu/en/documentation/studies/Documents/Preventing-Corruption.pdf>

³ The progress demonstrated by Georgia is also acknowledged by various international indexes, surveys and reports – Transparency International Global Corruption Barometer, EBRD Life In Transition Survey, IFC Business Perception Survey, World Bank Ease of Doing Business Survey, World Justice Project Rule of Law Index and monitoring reports from GRECO and OECD Anti-Corruption Network.

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⁵ <https://www.iso.org/iso-37001-anti-bribery-management.html>

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⁷ Independent Anti-Corruption Agency – Georgia and International Standards, Pg. 12, Institute for Development of Freedom of Information (IDFI), 20 July 2017

⁸ Global Corruption Barometer 2016, Transparency International.

⁹ <http://netgazeti.ge/law/72993/>

¹⁰ *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, Organisation for Economic Co-operation and Development, 2003, page 24. Available at: <http://www.oecd.org/gov/ethics/48994419.pdf>

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¹³ <http://www.oecd.org/gov/ethics/enhancingintegrityinpublicprocurementachecklist.htm>

¹⁴ <https://www.unodc.org/unodc/en/treaties/CAC/>

¹⁵ <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>

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¹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33027>

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²² <https://www.unodc.org/unodc/en/treaties/CAC/>

²³ <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>

²⁴ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173>

²⁵ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174>

²⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33027>

²⁷ Embezzlement/misuse of Funds and Other Most Frequent Financial Crimes in Georgia, 7 April, 2014, IDFI.

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- ³² <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174>
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Transparency and citizen participation are key tools in the development of good local governance. Both help create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as make their own needs and views known to government as it takes those decisions.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

To that effect, this handbook aims to support local and regional authorities in their efforts to make communities more open, ethical and citizen-oriented. It provides practical guidance on transparency policies and citizen participation mechanisms, includes a concise assessment of the most prevalent corruption risks in the country and incorporates actual examples of best practices.

The European Union is a unique economic and political partnership between 28 democratic European countries. Its aims are peace, prosperity and freedom for its 500 million citizens in a fairer, safer world. To make things happen, EU countries set up bodies to run the EU and adopt its legislation. The main ones are the European Parliament (representing the people of Europe), the Council of the European Union (representing national governments) and the European Commission (representing the common EU interest).

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