

GEORGIA

Handbook on Open Local Government and Public Ethics

Original:

Handbook on Open Local Government and Public Ethics in Georgia (English version)

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The research work and writing of this third edition was carried out by the Institute for Development of Freedom of Information (IDFI), a Georgian non-governmental organisation, as part of the project "Strengthening participatory democracy and human rights at local level in Georgia" (2020-2023). The international context and standards were elaborated by Tim Hughes, with contributions from Jeff Lovitt, senior experts in the area of good governance and democracy. The overall co-ordination was ensured by the Co-operation and External Relations Division of the Secretariat of the Congress of Local and Regional Authorities of the Council of Europe.

In 2021, six handbooks have been produced with context-specific information for Albania, Armenia, Georgia, the Republic of Moldova, Ukraine, and Kosovo*. They aim to preserve and share the lessons learnt and best practices identified during the implementation of co-operation projects implemented by the Congress of Local and Regional Authorities of the Council of Europe. In addition, the contents of the Handbook are available online on bE-Open platform at <https://www.coe.int/en/web/congress/beopen>.

** All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.*

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Foreword

Governments can function effectively only if they enjoy and sustain the trust of citizens in their commitment to delivering services and policies that serve the citizens. Open local government and a high level of public ethics are key to building confidence in the institutions of government.

Local government, municipalities and their civil servants and elected representatives have a crucial role in fostering and sustaining trust-building and participatory decision-making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regards to central governments, and usually represent the first interface between citizens and elected representatives. The professionalism and integrity of elected local government officials and local administrations, and their ability to function in a transparent, responsive, and accountable manner, are a prerequisite for the delivery of enhanced, fair, and equitable services to citizens. Local and regional elected representatives must therefore act as role models in the areas of public ethics, transparency, accountability, and participatory decision-making.

In order to fulfil this role, elected representatives must be well versed in the principles and standards underpinning public ethics. Furthermore, they should understand the legislation in force and the mechanisms and institutions through which the laws are implemented and enforced at the local level. The government authorities should also raise awareness among the public so that they also understand their legal rights and know where they should turn to make a complaint.

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 and public officials. A deficit of transparency and shortfalls in public ethics are problems faced by all levels of government, including the local and regional levels. They undermine the provision of services to citizens and businesses alike and pose a threat to the universal access to basic services and to sustainable local economic development. The fight against corruption needs to be a long-term priority for local and regional governments and their associations. Concerted preventive action and the monitoring of corruption risks are both paramount in order to foster economic growth, improve living conditions, and develop citizens' trust.

Where the decentralisation of power and financial resources advances, the quality of local governance becomes even more crucial. Therefore, along with the introduction and consistent application of criminal law provisions against corruption, it is essential to promote public ethics, transparency, accountability, and participatory decision-making in order to reduce the risk of corruption and boost citizens' 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 revised this Code, which was then adopted as the European Code of Conduct for all Persons Involved in Local and Regional Governance in November 2018. The updated text addresses new challenges, including new forms of communication, the impact of digital technology and the need to respect the privacy of data, and enlarges the scope of its application to all actors involved in local and regional governance, and not just elected officials.

In its priorities for 2021-2026¹, the Congress underlines the importance of promoting the quality of local and regional democracy and citizen participation. At the same time, the Congress devotes its attention to

the challenges arising from the Covid-19 pandemic and underlines the necessity of adapting work and activities to a new situation, including corresponding social, economic, and political changes. The thematic priorities of the Congress also include reducing social inequalities and ensuring that digitalisation and artificial intelligence enhance citizen participation. The Congress underlines that local and regional authorities should be the main actors for change and points out the importance of the fight against corruption and clientelism, and the participation of citizens in decision-making processes, for the proper functioning of local and regional democracies.

The Congress is determined to sustain a comprehensive, long-term engagement in corruption prevention, and in this spirit has established the position of Spokesperson on Promoting Public Ethics and Preventing Corruption at the Local and Regional Levels. The publication of this *Handbook* and our intention to actively promote its use are further demonstration of our determination to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regards to public governance are changing. To renew and sustain confidence in public administration, we need to set up effective mechanisms for the implementation of, and compliance with, standards of ethical conduct. 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 Open Local Government and Public Ethics* 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* provides local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and domestic legislation, and providing case-law examples and good practices that can be applied and promoted by all local authorities.



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of the Council of Europe



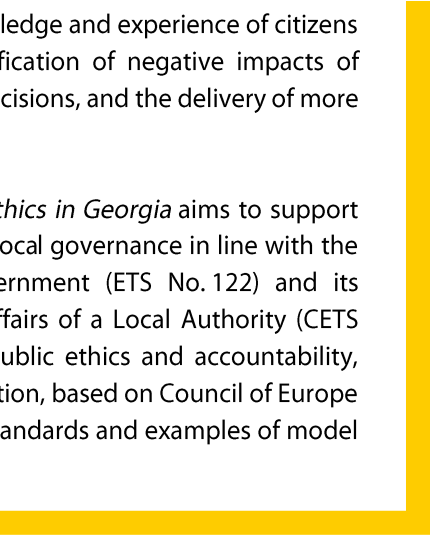
PURPOSE AND STRUCTURE OF THE HANDBOOK

Transparency and citizen participation are key concepts in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions that 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 application of tools to promote transparency and citizen participation, coupled with stronger accountability and public ethics, can help to drive out corruption and government malpractice. Both concepts also serve to help generate positive and enabling momentum to foster increased trust in public governance.

Finally, they help governments to draw on the skills, knowledge and experience of citizens to enable more informed decision-making, early identification of negative impacts of prospective policies, greater ownership of the resulting decisions, and the delivery of more effective public services.

The *Handbook on Open Local Government and Public Ethics in Georgia* aims to support local authorities in their efforts to improve the quality of local governance in line with the principles of the European Charter of Local Self-Government (ETS No.122) and its Additional Protocol on the Right to Participate in the Affairs of a Local Authority (CETS No.207). It provides them with practical guidance on public ethics and accountability, transparency, citizen participation, and countering corruption, based on Council of Europe principles and guidelines, and drawing on international standards and examples of model legislation.



To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the *Handbook on Open Local Government and Public Ethics in Georgia* includes specific information about domestic anti-corruption legislation and provides examples of mechanisms and tools to raise standards in public ethics and accountability, transparency, and citizen participation. The *Handbook* provides a concise assessment of the most prevalent corruption risks and a set of good practices to introduce and implement public ethics and open government.

The implementation of the mechanisms included in this *Handbook* will also help local authorities contribute to attaining the United Nations' Sustainable Development Goals (SDGs)² of the 2030 Agenda for Sustainable Development,³ namely goals 5 (gender equality), 11 (sustainable cities and communities), 16 (peace, justice and strong institutions) and 17 (partnerships for the goals). In this regard, the implementation of open local government will serve as a powerful driver for deepening the commitment to good governance in the context of sustainable development.

The *Handbook* is structured in four main chapters:

- Chapter 1 – Public Ethics and Accountability:
This chapter highlights the importance and challenges of public ethics and accountability in Georgia. It demonstrates the essential role that public ethics and accountability play in bringing about effective, transparent and participatory governance.
- Chapter 2 – Transparency:
This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. The account of each mechanism includes an introductory description and an outline of international standards. This is followed by four sections summarising key domestic laws and presenting practical guidelines and best practices which can serve as examples for local authorities in their efforts to enhance transparency.
- Chapter 3 – 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, an introductory description is provided for each mechanism followed by an outline of relevant international standards. The concluding four sections summarise key domestic laws and present practical guidelines and best practices which can serve as examples for local authorities in their efforts to foster and improve inclusive citizen participation.
- Chapter 4 – Corruption Risks:
This chapter introduces the most common corruption risks identified in Georgia and outlines relevant international anti-corruption standards, along with the domestic legal framework pertinent to each form of corruption. This is then supplemented with examples of case law and good practices related to each type of corruption.

Chapter 1

PUBLIC ETHICS AND ACCOUNTABILITY

Introduction

Public ethics and accountability are essential concepts underpinning 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 it is important that they are respected and monitored by relevant organisations.

Ethics embody the rules that define the conduct of public officials⁴ in order to ensure that the public is treated fairly and equitably. Ethics help officials make better decisions in the public interest and 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 public ethics and accountability, corruption and malpractice are able to thrive. As outlined in the final chapter, corruption is damaging to individuals, society, the economy, and government in a number of respects. The prioritisation of public ethics and 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 public ethics and accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between public ethics and accountability is complex, consistent and timely application of both can help to build and strengthen trust between the public and government.

Furthermore, public ethics and accountability can contribute to a positive environment where it is recognised that citizens and other stakeholders contribute to the quality of the decision-making process. Combined with citizen participation tools, public ethics and accountability can help to ensure that citizens' personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Elected representatives should be aware of the process by which declarations of assets are monitored and by which body, and which sanctions can be applied, and how, in the event that an office-holder makes a false or incomplete declaration. They should know the rules governing whistle-blowing and which official or officials are responsible for considering whistle-blowers' complaints and reports of wrongdoing. Local authorities need to ensure in-house training for newly elected representatives and provide regular refresher training for all elected officials. Knowledge and understanding of the legal and institutional framework are essential if elected representatives are to succeed as role models of political integrity.

Finally, public ethics and accountability are key to improving public services because public services that are more responsive and accountable to people – and benefit from their insights, ideas, energy, and scrutiny – will work better for people and the community as a whole.

Taken together, public ethics and 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. To this end, the Congress of Local and Regional Authorities of the Council of Europe adopted the European Code of Conduct for all Persons Involved in Local and Regional Governance,⁵ encouraging local and regional authorities and associations of local and regional authorities to design appropriate educational programmes in integrity management and to implement advisory services to help their staff to identify and deal with potential ethical risk areas and conflict-of-interest situations.

Transparency and citizen participation are important mechanisms for promoting public ethics and accountability in central 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.⁶ This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

General domestic context

Increasing the involvement of municipalities in the policymaking process and strengthening public administration reform at the local level, which is one of the priorities on the EU-Georgia Association Agreement,⁷ is essential for effective implementation of transparency and integrity policies at the local level and contributes to achievement of the Sustainable Development Goals (SDGs).

While discussing transparency and citizen engagement, it is also essential to underline the role of international institutions in fostering openness in national, regional and local governments. In this regard, the Open Government Partnership (OGP) is a crucial international platform providing Georgia with the opportunity to elaborate and implement action plans to raise the level of efficiency and transparency in public administration in line with the relevant international standards. The countrywide successful implementation of open government policy is also a powerful tool to tackle some of the problems local democracy may face. Hence, national action plans on open government include commitments at local level and involve local governments in the implementation of OGP principles. As of 2021 there are now four local authorities in Georgia (Akhalsikhe, Khoni, Ozurgeti, and Tbilisi) participating in the OGP local programme. The experience of Georgian municipalities will be presented in the chapters below, which once again demonstrates the importance of international institutions in the process of enhancing transparency and citizen participation.

In recent years, local authorities have been involved in the activities of the Inter-Agency Co-ordination Council for Fight against Corruption and the Open Governance Inter-Agency Co-ordination Council, and have undertaken to fulfil relevant commitments. The Anti-Corruption Action Plan for 2019-2020, among other commitments related to municipalities, envisages raising public awareness about municipal services, increasing citizen involvement in municipal activities and strengthening transparency and integrity. The development of local strategies and action plans to increase transparency and integrity in municipalities is also a recommendation of the OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN).

In terms of regulating general rules of ethics and conduct, it is necessary to mention the decree of the Government of Georgia “On Defining General Rules of Ethics and Conduct in Public Institutions”,⁸ which is also applied by municipal institutions in practice. The document aims to implement recognised public ethical principles and values in practice by creating an ethical environment in public institutions and development and implementation of professional ethical standards for civil servants.

Disciplinary liability issues for violating ethical norms are regulated by the Law of Georgia on Civil Service.⁹ In addition, the mentioned normative act defines conditions of hiring of a professional civil servant, career management and dismissal, civil service management issues, and others.

In order to establish a high ethical culture and standards at the local level, it is important to have a Code of Ethics and practical guidelines tailored to the special needs of local governments, which will provide specific examples and practical advice on issues, such as prohibited gifts, conflict of interest, incompatibility and misuse of administrative resources. At the same time, intensive work is needed to raise awareness of employees and officials on issues related to ethics. It is important to allocate appropriate staff within local self-government bodies, which will be responsible for improving the ethical environment and providing ethical advice to employees. It is necessary to ensure development of capacities of the supervisory units and to define grounds of disciplinary responsibility as well as elaborate a detailed procedure.

In terms of accountability, the results of the 2019 National Assessment of Georgian Municipalities (LSG Index) showed that the average score of municipalities on the 100% rating scale was 28%, which is 7% higher than the same indicator of 2017 (21%); however, it is still very low. In 2019, compared to 2017, the average result of city halls increased from 19% to 25%, while that of municipal councils increased from 24% to 31%. The overall rate of citizen participation and accountability in the self-government increased by 6% compared to the results of 2017, mainly due to such criteria as improving the infrastructure for ensuring citizen participation in the Municipal Council sessions; functioning of the Advisory Board (largely because of large cities); and access to public information.¹⁰ The executive and representative bodies of the municipalities have made some progress since 2017 in terms of transparency and accountability; however, radical steps need to be taken to achieve higher standards of accountability. In regard to the budget planning process, the vast majority of municipalities still do not envisage programmes targeted towards support of citizen participation. Although the creation of the mayor's Council of Civil Advisors is a legal obligation, they have not yet been established in 11 municipalities, and in those municipalities where they are set up, for the most part they still function poorly. The issue of holding community meetings remains a challenge, as is the practice of holding public hearings on issues of high public importance, including budget-related issues. In 65% of the municipalities, none of these discussions have taken place in 2019.¹¹

1.1. CODES OF ETHICS AND PROFESSIONAL CONDUCT

Codes of ethics establish basic principles by which public servants must abide, such as integrity, selflessness and openness. A code of conduct draws on the code of ethics to formulate standards and practices that should be applied to the particular circumstances of an institution.

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 transparency and public accountability into governmental operations.

International standards

Well-designed codes of ethics and codes of conduct will help meet the growing expectations from the public, business leaders and civil society for greater transparency and integrity in government, and will place 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. It is important that codes of conduct are in place for both civil servants and elected officials, and that training and guidance is provided to ensure a full understanding of the codes by all office-holders. Disciplinary measures and sanctions should be clearly stipulated and consistently applied in the event of noncompliance with the codes.

The following international conventions and standards relate to codes of ethics and professional conduct:

- The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct for Public Officials**¹² and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**¹³ are the reference texts for local and regional authorities in Europe for ensuring political integrity.
- The **Committee of Ministers of the Council of Europe's Guidelines on Public Ethics**¹⁴ consolidate in one single document Council of Europe core principles, standards and recommendations in this field, covering all categories of public officials, be they elected, appointed or employed. They are complemented by the **Guide on Public Ethics: Practical steps to implementing public ethics in public organisations**,¹⁵ a living document which provides case studies and examples from Council of Europe member states.
- The **OECD Recommendation on Public Integrity**¹⁶ shifts the focus from ad hoc integrity policies to a context-dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.
- The **Transparency International paper on Implementing Effective Ethics Standards in Government and the Civil Service**¹⁷ provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.

Domestic 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 ethics¹⁸ 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.

Even though municipalities are guided by the Code adopted by the Government, there is no mandatory Code of Ethics tailored to the needs of municipalities.

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 ground for disciplinary action – resulting in a warning, salary deduction and contract termination. At the same time, it is important for local authorities to adopt relevant codes of ethics tailored to their needs together with effective enforcement mechanisms.

Guidelines

A Guideline to Ethics and Rules of Conduct of Public Employees was developed by the Civil Service Bureau of Georgia in 2015.¹⁹ It contains practical information on cases and regulations related to ethics, including organisational culture, revolving door, nepotism, public procurement, disciplinary sanctions, public oversight, and whistle-blower protection. Although the document has not been adopted by an official

legal act, it serves as a useful practical tool for employees. As the Code of ethics for public employees was adopted after development of the Guideline, it is necessary to update the latter based on the new provisions introduced to the Code. Although the Guideline has not been updated since 2015, the commentary of the government decree on public ethics was adopted in 2018.²⁰

Good practices

Telavi and Lagodekhi,²¹ Senaki,²² Zugdidi²³ and Akhaltsikhe²⁴ municipalities have conducted transparency and integrity analysis within relevant mayors' offices over the past two years.²⁵ As a result, challenges were identified and individual strategies and action plans on transparency and integrity were developed. One of the directions of strategic documents is ethics and disciplinary proceedings. In this regard, the municipalities have committed to improving ethical standards, for the purpose of which it is planned to develop and approve codes of ethics in 2020-2021, prepare guidelines on ethics, establish an advisory mechanism on ethics, implement awareness-raising activities and define disciplinary proceedings in a comprehensive manner. In the process of elaboration of the strategic documents, consultations were held with local civil society and students. The documents were approved by orders of the mayors of the respective municipalities and published on their websites. The same initiatives are being implemented in four more municipalities (Akhmeta, Tsageri, Ambrolauri and Lanchkhuti municipalities) in 2021.

1.2. 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 allows civil servants and elected officials to identify where public services are being delivered ineffectively, inefficiently or inequitably. When such mechanisms result in the prompt and effective handling of complaints, they can help to create the conditions for increased trust of citizens in government administration.

International standards

To ensure confidence in the mechanisms, local authorities should endeavour to consider and resolve each complaint promptly and comprehensively. Complaints mechanisms can be made more accessible by applying a one-stop-shop approach so that citizens do not need to search among different offices and websites.

If government takes a proactive approach to pre-empt the repeat of similar causes for complaint, complaints mechanisms can also help governments to identify new approaches to service delivery and to increase citizen participation. To this end, complaints mechanisms should be combined with periodic evaluations of service delivery, including the use of public opinion surveys, and exchange of experience and tools with other local authorities to encourage wider adoption of good practice and tried and tested tools.

There are no specific international standards for complaints mechanisms relating to public services. However, mechanisms and procedures for responding to complaints are incorporated into an international legal guarantee to the right to participate in the affairs of a local authority, and there are a number of helpful civil society guidelines and handbooks. See for example:

- The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**²⁶ provides an international legal

guarantee to this right, including the establishment of mechanisms and procedures for dealing with and responding to citizen complaints and suggestions.

- **Transparency International's Complaints Mechanisms: Reference Guide for Good Practice**²⁷ sets out guiding principles and good practices for establishing and implementing complaint mechanisms that provide safe channels for citizens to alert a public or private institution about any corruption risks or incidences.
- The **Danish Refugee Council's Complaints Mechanism Handbook**²⁸ describes how to set up and manage a complaints mechanism.
- **World Vision's Overview of NGO-Community Complaints Mechanisms**, with an overview of mechanisms and tools used by development agencies to receive complaints.²⁹

Domestic 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, as the 2019 results of the National Assessment of Georgian Municipalities (LSG Index) demonstrated, one-third of Georgian municipalities do not proactively provide information to their citizens about municipal services through their websites. In addition, there are no established complaints mechanisms that would allow citizens to provide feedback on the quality of public services. All citizens have possibility to communicate with public agencies, but the complaints mechanism is not institutionalised. A well-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.

Supporting the development of public services, that are more responsive and accountable to people at national as well as at local level, is another key element of OGP. Commitments envisaged under the OGP Action Plans enable citizens to access information and engage in the monitoring of the process and outcomes of the activities of the central and local authorities. Supporting the development of modern technologies and electronic mechanisms for higher civic engagement and public scrutiny undoubtedly serve as important tools for strengthening openness and efficiency in the public administration.

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.

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 undertaken by the municipality should include analysis of existing municipal services, establishment of internal regulations that provide opportunity for systematic overview and evaluation of service delivery and establishment of transparent and efficient communication tools, including electronic tools for engaging with citizens, to identify their attitudes towards the quality of local service delivery. It is important to consider the development of a periodic survey system that would allow local public officials to analyse the service delivery system through public opinion research. Similar studies may include the Survey of

Citizen Satisfaction with Public Services in Georgia, commissioned by UNDP Georgia in 2015 and 2017. 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.

The necessity of important reforms in this direction is demonstrated by the Decentralisation Strategy for 2020-2025, which among other activities envisages the development of common minimal standards for municipal services.³⁰

Good practices

The 'Voice of the Customer', a project implemented by the Public Service Hall of Georgia,³¹ allows citizens to express their feedback through feedback machines installed in the Public Service Halls of Georgia. Furthermore, a 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 a citizen about the complaint.

The OGP Action Plan of Georgia for 2016-2017 covered several commitments directed at enhancing citizen engagement in local municipality decision-making processes. Considering the lack of responsiveness of local government institutions, under the OGP Action Plan of Georgia for 2016-2017, Ozurgeti Municipal Council committed to ensure live streaming of the Council meetings and publication of the full video files of the meetings on the webpage of the municipality.³² In addition, citizens can post comments and questions through the livestream.³³ Lastly, it can be also mentioned that Ozurgeti Municipality has e-petitions portal which is actively used by the citizens.³⁴

Promoting citizen involvement in decision-making processes at local level has also been one of the priorities of the OGP Georgia Action Plan for 2018-2019. Particularly, Zugdidi Municipality took the obligation to further develop electronic engagement and citizen co-operation tools by elaborating the electronic portal "Your Idea to the Zugdidi Mayor". The platform (idea.municipal.gov.ge) integrates almost all municipalities of Georgia and enables citizens to communicate and propose specific ideas and initiatives to the mayor.

1.3. GRIEVANCE REDRESS MECHANISMS

Grievance redress mechanisms (GRMs) are tools that go beyond complaints mechanisms and other feedback channels as citizens can use a GRM to address government institutions and local municipalities with concerns about the impact of policies and their implementation on the citizens themselves. When the policy of a public agency affects the interests of the citizens, or the decision made by the central or local governmental bodies causes a grievance on the part of the citizens, interested parties can use the redress system created by the government agencies and local municipal bodies to present their grievance. A grievance redress mechanism is not used to replace the court or audit system or formal investigation; nor is it the appropriate mechanism for grievance about potentially criminal acts, such as instances of corruption. GRMs are designed for collaborative solutions of grievances.

International standards

Redress mechanisms serve as a frontline service to be used by citizens to effectively resolve complaints and/or grievances. Furthermore, business organisations can use GRMs to mitigate risks to their business

operations and GRMs can become a prompt and effective mechanism for dispute settlement short of legal action.

Effective redress mechanisms can serve to identify patterns of corruption and malpractice, and to forge corruption prevention policies. To ensure greater access, it is important to raise public awareness about GRMs and to provide free advice to citizens on the formulation of grievance claims and how to proceed when seeking redress.

Standards for grievance redress mechanisms are mostly set by international organisations such as the World Bank, Asian Development Bank (ADB), Organisation for Economic Co-operation and Development (OECD), United Nations Development Program (UNDP) and European Commission. These standards are mostly connected with setting the legal framework for the protection of citizens' rights. These standards are presented in the following guidelines:

- **Reliability of Public Services: Ensuring Citizens' Rights**³⁵ from the OECD addresses citizens' rights to be heard using the legal framework established by state institutions.
- **OECD, Recommendation of the Council on Public Service Leadership and Capability, OECD/LEGAL/0445**³⁶ – the recommendation has 14 principles and defines the responsiveness of public service.
- **How to make a complaint at EU level by European Commission**³⁷ is a pamphlet outlining the opportunity for citizens to contact and submit a complaint to the European Commission.
- Guidance developed by the international institutions on the protection of citizens' rights during the implementation of a business project includes the **ADB's Building Capacity for Grievance Redress Mechanisms**.³⁸

Domestic context

Efficiency and trustworthiness are key aspects of the public service. Efficient service delivery should be ensured both at central and local levels, in the ministries, as well as in municipalities. A key feature of service delivery is the right to address the administrative body with a complaint and demand the restoration of the infringed rights. Redress mechanisms are considered as effective, collaborative and problem-solving tools for the citizens. There are several interesting examples of redress in Georgia.

Before applying to the court, citizens of Georgia have the right to address the administrative bodies both on central and local level. They can appeal the decisions of the public institutions and local municipal bodies by applying to the mentioned institutions or to the supervisory entity. Assuming the overwhelming procedures of the court, addressing to the administrative bodies is less time and resource consuming. If a citizen wants to apply to the court, especially regarding the administrative cases, they should at first file a complaint to the same institution, which has adopted the decision. For example, decisions of the LEPL State Service Development Agency should be appealed at first in the LEPL State Service Development Agency. Afterwards, if the decision is not satisfactory, it can be followed by a court case, mostly in the administrative branch of the court system.

There are several public institutions which managed to establish successful dispute resolution bodies where the appeal from the citizens and organisations can be discussed and, if there are relevant grounds for it, satisfied. Among such state institutions is the Ministry of Finance of Georgia, which operates the Council of Tax Appeals³⁹ as a tax dispute resolution body. The Council is headed by the Minister of Finance, and its members represent different governmental bodies as well as NGOs. The tax dispute resolution system within the Ministry of Finance envisaged two stages and starts with submission of an appeal to the Revenue Service. In case of an unfavourable decision, the taxpayer has the right to lodge an appeal at

the Council of Tax Appeals. The taxpayer is empowered to apply to the Court at any stage of dispute at the Ministry of Finance. In 2019, the Council of Tax Appeals discussed cases which in total amounted to GEL 800 million. Generally, the Council discusses about 1000-3000 cases per year, and there are many cases when the complaints of business organisations were satisfied, and the Council made the decision in favour of such an organisation.

Another effective body for consideration of appeals is the Dispute Resolution Board at the LEPL Procurement Agency.⁴⁰ The LEPL Procurement Agency is an independent administrative body Chairperson of which is appointed by the Prime-Minister of Georgia. As practice shows, the Dispute Resolution Board at the Procurement Agency mostly supports the appeals of the business organisations and individuals, and the decisions of the Dispute Resolution Board are almost never appealed to the courts of Georgia.

Public agencies in Georgia, as well as the civil society organisations, often have legal counsellors who are giving advice to the citizens regarding the ways of filing a complaint and methods for seeking the redress.

Legislation

According to Article 2, paragraph 1, subparagraph "i)" of the General Administrative Code of Georgia, an administrative complaint is defined as "a written request to restore violated rights submitted by an interested party to an authorised administrative body in the manner determined in this Code, to declare null and void or modify an administrative act issued by the same or a subordinate administrative body; or to issue a new administrative act; or to perform or abstain from performing an action by an administrative body that does not entail the issuance of an individual administrative act".⁴¹ According to Article 178 of the General Administrative Code, the administrative body issuing the administrative act shall review and resolve the complaint if there is an official at the administrative body superior to the official or to the structural sub-division having issued the administrative act. The complaint should be filled within one month after publication of the administrative act.

Other legal acts in the sphere of redress mechanisms are the Civil Code and the Tax Code. At the same time, the Administrative Procedure Code of Georgia, and the Civil Procedure Code of Georgia can also be used to better formulate the complaint to the administrative body.

According to article 62 of the Organic Law of Georgia "Local Self-Government Code",⁴² administrative-legal acts of municipal bodies, officials and other officers, shall be appealed to a court under the procedure established by this Law and other laws of Georgia. Individual administrative-legal acts of an official of a City Hall (except for the Mayor) and of any other officer shall be appealed to the Mayor and further to a court under the procedure established by law.

Guidelines

There are no guidelines for the citizens and interested stakeholders on how to apply to the local and central administrative bodies but there is a growing need to develop a clearly structured document, which shall guide the citizens on the ways of preparing and submitting a complaint.

Most of the public institutions, including the Administration of the Government of Georgia, have defined the rules and elaborated the form for submitting of a complaint to the Government of Georgia published on its official webpage.⁴³ These rules are not guidelines as such, but this is a simplified and adapted version of the articles from the General Administrative Code of Georgia, which is more understandable for the citizens.

Good practices

Despite the lack of proper Guidelines for submitting complaints, the General Administrative Code of Georgia sets the established practice for appealing the decisions of the administrative bodies, including local authorities. As it is mentioned above - the administrative body issuing the administrative act shall review and resolve the complaint if there is an official at the administrative body superior to the official or to the structural sub-division having issued the administrative act. The complaint should be filed within one month after publication of the administrative act. Another example of the good practice are the dispute resolution boards at the public institutions, in which are represented individuals from different sectors, and are staffed with professionals. The decisions of the dispute resolution boards are almost never appealed in courts. Lastly, most of the Public Institutions have ready-made simple forms to simplify for citizens the process of submission of complaints. At the same time, such institutions also have small brochures based on the legislation, where the citizens can get information about the submission of the appeals with a relatively easily understandable way.

1.4. PROTECTION OF WHISTLE-BLOWERS

Corruption and other actions harmful to the public interest, including to public health, are more prevalent in organisations that lack a culture of transparency and oversight. A whistle-blower is a person who exposes information on illegal or unethical activities in a private or public organisation, and the rights of a whistle-blower who discloses wrongdoing, or acts and omissions harmful to the public interest, should be protected under "whistle-blowing" laws. Although usually an employee, the whistle-blower could also be a sub-contractor, supplier, unpaid trainee or volunteer. The protection of whistle-blowers is important also in the private sector, not least where they might uncover bribery to public officials or practices damaging to the environment or public health and safety.

International standards

Most whistle-blowers raise their concerns internally or with regulatory or law enforcement authorities rather than blowing the whistle in public. The protection of whistle-blowers, and an organisational culture that prioritises transparency and dialogue, serves to promote accountability, builds confidence in the integrity of government, and encourages the reporting of misconduct and corruption. Whistle-blower protection can motivate employees to report wrongdoing without fear of reprisals, and fosters transparency and trust within an organisation as well as outwards to citizens that ethics are upheld and misconduct detected and remedied.

The rights of whistle-blowers can be strengthened by stipulating clear processes and providing secure confidential channels for disclosure. Explicit remedies, including penalties, to redress reprisals against whistle-blowers should be introduced and consistently applied. Training of human resources staff in local government and government agencies needs to be complemented by awareness-raising among the public so that citizens and government employees alike understand the positive results from whistle-blowing in terms of sustained value for money, trust in public authorities, and quality of services.

The following international conventions and standards relate to the protection of whistle-blowers:

- Creating comprehensive and effective mechanisms to protect those who disseminate information in the public interest is a recommendation of both the United Nations and the Council of Europe,⁴⁴ as well as the Organization for Economic Co-operation and Development (OECD).⁴⁵ The **Congress of the Council of Europe's resolution and recommendation on *The protection of whistle-blowers***

Challenges and opportunities for local and regional government call on "local and regional authorities to establish and disseminate a whistleblowing policy, with appropriate internal and anonymous reporting channels and to ensure that independent designated institutions exist to oversee and process the disclosure of information".⁴⁶

- The **United Nations Convention against Corruption**⁴⁷ is the only legally binding universal anti-corruption instrument.
- It is supported by the **Technical Guide to the Convention**.⁴⁸
- The **EU Directive on the Protection of Persons who Report Breaches of Union Law** requires EU governments to meet minimum standards for establishing reporting channels and ensuring legal protection for whistle-blowers.⁴⁹
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**⁵⁰ aims to coordinate 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)**⁵¹ defines common international rules for effective remedies for persons affected by corruption.

Domestic context

A disclosure website (<https://mkhileba.gov.ge/>) is available in Georgia, through which a person can disclose violations of the law or ethics without indicating their identity. However, this website is virtually not used, and no statistics are published regarding incoming notifications and relevant responses.

According to the law on the Conflict of Interest and Corruption in Civil Service, in addition to the website, disclosure may be made to a law enforcement agency or the Office of the Public Defender.⁵² The effectiveness of the national whistle-blower protection system is questionable; relevant institutions do not publish statistics, and the government has not yet evaluated the effectiveness of the disclosure channels.

Legislation

Georgian legislation defines whistle-blowing as informing by a person (whistle-blower) of the body reviewing the application, investigator, prosecutor and/or the Public Defender of Georgia about a public servant, who has violated or may have violated Georgian law or norms of general ethics and conduct, which has harmed, or may have harmed public interests or reputation of the relevant public institution. Informing the civil society or the media about the above-mentioned violation shall also be considered as whistle-blowing after the body reviewing the application, the investigator, the prosecutor or the Public Defender of Georgia makes a relevant decision.⁵³ The definition of Georgian law is not fully in line with the definition of the Council of Europe, because unlike the latter, Georgian law on the Conflict of Interest and Corruption in Civil Service only lets public disclosure by a whistle-blower after a decision has been made by the relevant body. In addition, unlike the Council of Europe, Georgian legislation does not cover the private sector.

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions does not specify who can be a whistle-blower. Although the government decree on definition of general rules of ethics and conduct in public institutions defines the notion of a whistle-blower, it does not specify whether a whistle-blower must be a public servant, however, the fact of disclosure must be related to public service.⁵⁴ Disclosure may be made anonymously.

Georgian legislation protects whistle-blowers from the following actions:⁵⁵

- Intimidation, harassment, coercion, humiliation, moral or material harm, abuse or threat of violence, discrimination or other unlawful acts against a whistle-blower or their close relative.

- Initiation of administrative or civil proceedings or criminal proceedings against the whistle-blower and imposition of liability on them, as well as application of coercive measures against them due to the circumstances related to the fact of disclosure.

According to the law, in case of application of the above-mentioned measures against a whistle-blower, the relevant public institution has to prove that it is not related to the fact of disclosure and there is a ground for this provided by the legislation of Georgia.⁵⁶ The whistle-blower enjoys safeguards whether the information disclosed as a result of the disclosure is true or false given that the whistle-blower was not and could not have known in advance that the information was incorrect and that their purpose is not to obtain a personal gain.

Guidelines

There is no guideline generally issued for civil servants or specifically for local governments on whistle-blowing. The whistle-blowing online platform⁵⁷ offers some explanations and a “frequently asked questions”, tab explaining who can be a whistle-blower, what can be reported, and how.

Good practices

In 2020, the IDFI addressed 232 public agencies to study the practice of using the whistle-blowing mechanism in the public sector (the Government Administration, the Parliament of Georgia, the President Administration, 10 ministries and state minister office, 124 city halls/assemblies, 94 legal entities of public law and other independent institutes), requesting statistical information on whistle-blowing statements received between 2017 and 2020. Out of the 232 public institutions, 142 explained to the IDFI that their agency has not received a whistle-blowing statement in the last four years, and 72 agencies did not respond to the IDFI’s request for public information. Out of the 159 public agencies that responded to IDFI, only 18 agencies were observed to have registered at least one disclosure statement between 2017 and 2020. The responses received upon the request for public information give grounds to conclude, that most of the public agencies do not record disclosure statements and/or do not issue information related to those. Agencies that record disclosure statements process different types of data and since there is no unified methodology of whistle-blowing data processing, the data could not be analysed comprehensively including disaggregation by gender and position of a whistle-blower/disclosed person.

1.5. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICTS OF INTEREST

Disclosure is the act of routinely publishing and updating particular types of information, sometimes required by law, such as the financial interests of public officials. It can support anti-corruption measures by requiring the routine publication of assets and interests that could represent a conflict of interest. A conflict of interest arises, or can be perceived to arise, when the private assets or interests of public officials can improperly influence policies and decisions taken during the exercise of their official duties.

International standards

Disclosure requirements can build citizens' trust in the transparency and integrity of local decision-making. They also assist public officials in having regularly updated information that prevents conflicts of interest arising among employees. Disclosure of financial assets also provides important information to help clarify if elected officials or civil servants do not have wealth that is disproportionate to their income, either protecting them from false accusations or serving as evidence in the case of suspected illicit enrichment.

Service delivery at the local government level, whether it be construction or tendering of waste-management services, is often subject to conflicts of interest due to the proximity of local entrepreneurs to government officials.

Confidence of the public and business that competition for local government tenders, for instance, is open to all without discrimination will be much greater if both elected officials and civil servants involved in design of the tenders and assessment of tender submissions have completed declarations of assets and interests (including of close family members).

It is important that the institutions responsible for gathering and monitoring declarations are provided with protection against political or other interference in their work, for instance through oversight by independent ethics committees. Likewise, local government officials should be provided with clear guidance on what to declare, and also on prevailing anti-corruption legislation. A well-implemented and regularly updated and monitored assets declaration system can complement the work of an effective prosecution service.

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

- The **Committee of Ministers of the Council of Europe’s Recommendation on Codes of Conduct for Public Officials**⁵⁸ and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**⁵⁹ require private interests to be declared, made public and monitored.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Conflicts of interest at local and regional level**⁶⁰ call on local and regional authorities to promote the proactive disclosure of declarations of interest prior to public request and to ensure that disclosure policies are accompanied by appropriate measures for resolving conflicts of interest.
- 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.
- **Consultation, Participation & Disclosure of Information**, International Bank for Reconstruction and Development / The World Bank.⁶³

Domestic context

Disclosure of asset declarations is a mechanism that is important for 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 (declaration.gov.ge). Citizens are able to look at the financial interests of public officials and provide public oversight on potential cases of conflict.

Legislation

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions requires public officials to submit asset declarations annually, and in case of certain positions, even after leaving the 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 the following monitoring mechanisms:

1. Random selection of declarations by a machine;
2. Selection of “high risk” declarations by a special committee (which also includes non-governmental organisations) established annually under the Civil Service Bureau; and,

3. Written request including reasonable doubt about a possible infraction.

According to the abovementioned Law of Georgia on Conflict of Interest and Corruption in Public Institutions, failure to submit an official's asset declaration within the time limit set by the Law is subject to a fine in the amount of GEL 1 000. In the case of providing incorrect information in the declaration, an official will be subject to a fine in the amount 20% of their official salary, but not less than GEL 500. In the case of minor violation regarding the declaration, an official will be given a warning.

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

Guidelines

The Law of Georgia on Conflict of Interest and Corruption in Public Institutions itself provides instructions on how public officials must submit declarations. Within two months of occupying the relevant 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, stocks, bank deposits, cash exceeding GEL 4 000, contractual receivables exceeding GEL 3 000 and obligations exceeding GEL 5 000, gifts exceeding GEL 500, and contracts with subjects exceeding GEL 10 000. Officials must re-submit declarations annually and one year after leaving the office. The instructions for monitoring of asset declarations are also adopted by Government Decree and outline detailed procedures on how to monitor declarations. In addition, the Civil Service Bureau has published comparative research on the Rules of Submitting Asset Declarations in the United States and Georgia.⁶⁵

Good practices

Although there are no specific best practices related to disclosure of assets of public officials in any particular institution or municipality, 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 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 The results of the first monitoring became public at the end of 2017; successive annual monitoring results have been published since then. It can 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 a municipal public official on the webpages of the City Hall and Municipal Council – this would provide the public with an opportunity to directly look into the asset declarations of public officials of the local self-government.

Chapter 2

TRANSPARENCY

Introduction

The principle of transparency is applied to ensure that those affected by administrative decisions have comprehensive information about the results and implications of policies and about the process of decision-making. The public availability of information about government policies, programmes and activities enables citizens and local communities to gain a clear understanding of government actions, make informed choices, and participate in local decision-making processes. It also enables elected officials, those in government and those in opposition, to take informed decisions and to exercise effective scrutiny and hold the executive to account for their actions. In addition, access to information is essential for journalists and civil society representatives to effectively perform their watchdog functions and hold the government accountable.

Local government should make data available to the public in an accessible format and do so in a timely manner. This enables citizens and stakeholders to participate in decision-making processes from an informed perspective, and to monitor and evaluate government implementation of policies and decisions in order to hold public officials accountable for their actions. Transparency is achieved through a range of mechanisms, building on the right of citizens to access information. These include the disclosure of the financial assets and interests of senior public officials and elected office-holders, and the publication of information in accessible, intersearchable open-data formats.

According to the definition of the Open Knowledge Foundation, “open data is data that can be freely used, re-used and redistributed by anyone – subject only, at most, to the requirement to attribute and share alike.”⁶⁸ Therefore, the concept of open data goes beyond the availability of public information and focuses on its use, out of which additional economic, social and political benefits are generated.⁶⁹ To make it happen, the data published should be complete, permanent, non-exclusive, non-discriminatory, and non-proprietary, as well as provided by primary sources, in a timely manner and in machine-readable formats.⁷⁰

Limited access to public information negatively affects public trust towards public institutions, increases potential corruption risks, and restricts opportunities for various stakeholders to monitor government performance. It also inhibits citizens and stakeholders’ efforts to participate in policymaking and to design evidence-based policy recommendations for positive changes. The practice shows that access to information legislation and proper enforcement measures are an essential part of the enabling environment for citizens’ access to information.

Public procurement is considered to be one of the key areas susceptible to corruption. It accounts for around 12 percent of global gross domestic product,⁷¹ and in most high-income economies the purchase of goods and services accounts for one-third of total public spending. In short, public procurement is a significant area for potential corruption, collusion, and other illegal practices. To avoid public procurement-related corruption risks, electronic means and platforms operating through open data solutions are increasingly available and used by government authorities to reform state procurement tendering procedures. Combined with open contracting (where bids and contracts are made public), the increase in fully accessible, well-publicised procurement processes opens tendering to more bidders and reduces the scope for anti-competitive practices and bribery.

Another important component of transparency principles is the openness of the financing of political parties and election campaigns, as it is important for the electorate to know the sources of financing, and

how the money is spent, in order to make informed decisions and to understand which financial, political or other interests are supporting particular candidates or parties. The transparency of political donations is a preventive measure against the use of money emanating from illicit and criminal sources in politics and elections.

Finally, to ensure that state resources are used in an economical, efficient and effective way, the independence and institutional capacity of the body responsible for external audit should be secured. Members of the wider public should have the possibility to familiarise themselves with reports and major recommendations issued by the auditor. External audit is important to identify major challenges in the public sector, improve transparency and performance of public institutions, and design evidence-based policies.

General domestic context

Over the past two decades, Georgia has made significant progress in terms of good governance and transparency reforms. Various international studies show that the country has effectively tackled petty corruption and is currently continuing to implement the necessary reforms to prevent and eliminate high-level corruption that will ensure the consolidation and strengthening of democratic systems. The engagement of local municipalities, their demonstrated efforts, active participation and the sharing of experience between local civil servants and decision-makers is crucial in this process.

Introduction of good governance standards at the local level is one of the important components of Georgia's Decentralization Strategy (2020-2025).⁷² The third strategic goal of the document is to establish a credible, accountable, transparent and result-oriented local self-government, which includes the following important objectives:

1. Implementation of effective and innovative management systems and quality service delivery at the local level;
2. Introduction of a high standard of transparency and accountability;
3. Promotion of high-quality participation in the decision-making and implementation process by the local self-government;
4. Establishment of a local development planning and coordination system.

Strengthening of local self-government is also included as one of the objectives of the country's Public Administration Reform, which is in line with the priorities of the Association Agenda between Georgia and the European Union.

In recent years, local municipalities have become more active in various local and international initiatives on good governance. For example, several municipalities have joined the Open Government Partnership (OGP) and undertaken various activities under OGP National Action Plans. In addition, Tbilisi City Hall has been developing and implementing its own OGP Action Plans since 2016 as part of the OGP local programme. In 2020, Ozurgeti, Khoni and Akhaltsikhe municipalities also joined the OGP local programme, and committed to develop their first OGP Action Plans. Furthermore, since 2015, the National Anti-Corruption Strategy of Georgia has identified anti-corruption priorities and measures for municipalities. For example, the Anti-Corruption Strategy 2019-2020 and its Action Plan, among other commitments, aim to strengthen the principles of integrity, openness, accountability and transparency in municipalities. To this end, the Action Plan stipulates for development of strategies and activities to increase transparency and integrity in municipalities. This echoes the recommendation of the OECD's Anti-Corruption Network, which has been issued to improve the principles of good governance in the country.⁷³

2.1. 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. As an integral part of the right of freedom of expression, access to information is a human right⁷⁴ and everyone should have the right to access information from public bodies and public agencies in accordance with the principle of maximum disclosure subject to only a narrow, clearly defined, set of exceptions proportionate to the interest that justifies them (e.g. grounds of security or data privacy).

International standards

Access to information supports accountability, oversight of government, and monitoring of corruption. It is also critical to informed citizen participation in decision-making, and is therefore fundamental for the effective functioning of democracies. Free access to information empowers civil society to monitor and scrutinise the actions of local authorities, it serves to prevent abuse of power by public officials and provides data for informed public debate.

The proactive publication of the maximum amount of information in the most accessible formats serves to reduce the need for citizens and stakeholders to file individual requests for the release of information. As well as providing the maximum amount of information electronically, local authorities should prioritise the designation of Freedom of Information officers in their municipalities. Such officers should prepare and publish detailed recommendations for both citizens and local authorities, and provide clear guidance on the appeals process in the event that a request for information is not granted. It is also important to analyse information requests from citizens and stakeholder groups, in particular trends and duplication, so that the authorities can subsequently release such information on a proactive basis.

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 (CETS No. 205)**⁷⁵ affirms an enforceable right to information.
- The **Congress of the Council of Europe's Resolution and Recommendation on Transparency and open government**⁷⁶ call upon local and regional authorities to increase the use of open data and records management by their administrations, and to publish these in comprehensive, accessible and reusable ways.
- The **Aarhus Convention**⁷⁷ grants rights, including access to information, in decisions concerning the environment.
- The **OECD Recommendation of the Council on Open Government**⁷⁸ identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.
- **Resolution 59 of the UN General Assembly** adopted in 1946, states that "freedom of information is a fundamental human right", and Article 19 of the **Universal Declaration of Human Rights (1948)** states that the fundamental right of freedom of expression encompasses the freedom to "to seek, receive and impart information and ideas through any media and regardless of frontiers"⁷⁹.
- **Directive 2003/98/EC on the re-use of public sector information, nowadays called the Open Data Directive**,⁸⁰ previously known as the PSI Directive, encourages EU member states to make as much public sector information available for re-use as possible.

Domestic context

Access to information is a fundamental human right recognised and guaranteed by public institutions and civil society organisations in Georgia. The right to access to public information is enshrined both in Article 18 of the Constitution of Georgia⁸¹ 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 2% of citizens had requested information from a public institution in 2017.⁸²

While transparency and access to information are crucial towards promoting civic engagement and can contribute to the principles of good governance, the Open Government Partnership (OGP) Action Plan of Georgia 2018-2019 covered commitments, targeted towards ensuring unhindered citizen access to public information at the local level.

Proactive disclosure of public information is one of the most significant commitments undertaken by Georgia within the framework of the OGP. The commitments undertaken by municipalities under OGP action plans, namely, supporting development of electronic mechanisms and ensuring publication of information in easy-to-use formats, ensure increased transparency and accountability of local authorities. It is noteworthy, that according to the National Assessment of Georgian of Municipalities in 2019, the overall results of evaluation of Georgian municipalities were quite low. On the scale of 0% to 100%, the average score of all municipalities was only 28% (25% for city halls / municipal administrations and 31% for municipal councils).⁸³

In this regard, for the purpose of increasing openness and citizen access to public information at local level, Tbilisi OGP Action Plan for 2018-2020 included improvement of municipal electronic resources by creating an Open Data Portal of Tbilisi City Hall. Particularly, the Commitment 5 of the Tbilisi OGP Action Plan 2018-2020 aims at updating the format of the Tbilisi City Hall webpage, ensuring easier access to public data for citizens. In order to increase citizen involvement in decision-making processes at local level, the new version of Tbilisi City Hall webpage offers a proactive publication portal and the electronic tool for subscribing to public information.⁸⁴

Legislation

Article 18 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.

Since 2013, central and municipal public agencies have 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.

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.⁸⁵ 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.

Good practices

There are a number of public institutions that score consistently well in the rating of access to public information. For 10 years, the National Statistics Office of Georgia, the Office of the Public Defender and the State Inspector Service have been leading the rating with a 100% access to public information. According to a 2020 report, out of 285 public institutions, 19 agencies received a 100% score in the rating. As for performance of local self-government bodies, only Municipal Councils of 7 municipalities (Poti, Khobi, Kareli, Chiatara, Khashuri, Telavi and Zugdidi) have received the highest scores (100%) for the number of requests, completeness of the response and time compliance. Meanwhile, none of the City Halls were included in the top ten of the rating of City Halls and Municipal Councils, meaning that none of the municipal halls in 2020 fully responded to all the requests from IDFI. Also, as the annual report argues, the rate of access to information of the Tbilisi municipal Council has slightly improved compared to 2019 and amounted to 91.67%, while in the case of Tbilisi City Hall, it has decreased by 7.1% and equalled to 70.45%.⁸⁶

In 2017, the National Assessment of Georgian Municipalities (LSG Index) was established by local civil society organisations to assess transparency and accountability of all municipalities throughout the country. Based on the 2019 results of the LSG Index, the average performance of the municipalities on a 100% scale was 28%, which was seven percentage points higher than the same indicator in 2017 (21%). Batumi Municipality scored the highest percentage in 2019 with 61%, 11 percentage points higher than Rustavi Municipality (50%) in 2017, which had the highest score. Together with Batumi, the top five municipalities in the transparency ratings are Rustavi (57%), Lagodekhi (56%), Zugdidi (55%) and Tetrtskaro (52%) municipalities.⁸⁷

Among several thematic areas, the LSG Index assesses the extent to which municipal bodies proactively publish public information on their websites. According to the 2019 evaluation, the overall score in this regard was 25%, which was six percentage points higher than the same indicator in 2017. Like the previous (2017) evaluation, municipalities scored the lowest in the lack of published information about administrative expenses and the legal entities of public and private law owned or managed by municipalities.⁸⁸

2.2. 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, and provides important data for research and innovation by public bodies, the private sector, and civic stakeholders.

International standards

The promotion of open data through one-stop portals can further increase the scope for interoperability of datasets in terms of search and analysis. The results can improve the efficiency and reach of service delivery and reduce corruption. Awareness-raising among stakeholder groups, the media, businesses, and the wider public can result in effective co-operation among different stakeholders and improvements in solutions on transportation, recreation facilities, parking zones, health services, and much more.

It is important to adopt consistent open data standards for all open data to ensure maximum interoperability and searchability of data. Local authorities should also ensure that qualified staff manage the municipality's open data publication, and train relevant employees in open data standards.

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

- The **Congress of the Council of Europe's Resolution and Recommendation on Open data for better public services**⁸⁹ explain its importance for improving local democracy.
- The **Congress of the Council of Europe's Resolution and Recommendation on Transparency and open government**⁹⁰ call upon local and regional authorities to increase the use of open data and records management by their administrations.
- The **United Nations Guidelines on Open Government Data for Citizen Engagement**⁹¹ introduce policy guidelines and good practice recommendations.
- This **World Bank Toolkit**⁹² starts from the basics, through to planning and implement, as well as avoiding common pitfalls.
- The **Five Star Open Data Deployment Scheme**⁹³ provides five steps to fully opening data, explaining the costs and benefits of each.
- The **International Open Data Charter**⁹⁴ sets out six principles for open, timely and interoperable government data.

The **OECD Recommendation of the Council on Open Government**⁹⁵ identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.

Domestic 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 (data.gov.ge). The portal contains the information of various public institutions in an open data format, including on procurement, public spending, and policy. The portal is administered by a subordinate agency of the Ministry of Justice, the Legal Entity under the Public Law (LEPL) Digital Governance Agency (previously, Data Exchange Agency). However, since public institutions are not obligated to place databases owned by them on the portal, only 173 datasets have been published over the past four years.⁹⁶

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 utilisation.

Over the past two years, municipalities have taken several steps to improve open data collection and publication practices. In particular, Akhaltsikhe and Kutaisi municipalities elaborated and adopted Open

Data Strategies for 2019-2020,⁹⁷ while other six municipalities (Gori, Lagodekhi, Ozurgeti, Senaki, Telavi and Zugdidi) plan to improve open data management practices by analysing the existing challenges, elaborating data management internal procedures and increasing qualification of public servants responsible for data processing and publication.⁹⁸

Legislation

Currently, there is no national or local legislation regarding production and use of open data in Georgia. The new draft law on Freedom of Information, which is planned to be initiated in the Parliament of Georgia, is expected to introduce the definition of open data, based on which public institutions will be obligated to publish open data owned by them in open and machine-readable formats. The absence of common standards, however, 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.

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 Georgia⁹⁹ examined 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.

Analysis of the access to and use of open data conducted in 2018 has demonstrated, that scarcity of available open public data is mostly attributed to the lack of a relevant legal framework, and absence of common standards and effective enforcement mechanisms.¹⁰⁰

Good practices

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. Due to the limited number of datasets published on the portal, its impact is still limited. Some of the information available on municipal web portals is available in open data formats (mostly in Excel); 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.

Another best practice comes from the civil society. In particular, in 2018 Georgia's Open Data Lab, a Tbilisi-based organisation was set up¹⁰¹. Users can find data, basic visualisation tools, and resources to analyse data, design data visualisations, conduct research, and develop web and mobile applications on the platform. In particular, the website contains processed datasets accumulated from more than 180 central and local public institutions. As of July 2021, the platform consists of about 1,390 datasets, which are available in open and machine-readable formats (mainly in Excel and CSV). Datasets cover public policy issues such as: public administration and administrative expenses, local government, economy, finance, healthcare, crime statistics, social issues, education, environment, transport and society. Besides exploring

data, users are able to: analyse and process data of their interest; make simple visualisations; download datasets in open formats; share data on social networks and websites; create new apps. The platform is actively used by journalists, researchers, activists, students and open data specialists.

2.3. PUBLIC PROCUREMENT

Public procurement refers to the process by which public authorities, including local authorities, purchase work, goods or services. As public procurement is an essential part of public service provision for local and regional authorities, efficient, cost-effective procurement is key to good governance.

International standards

As procurement involves a large proportion of public expenditure and the transfer of public resources to the private sector or non-profit organisations, it is particularly vulnerable to corruption. Public authorities should deploy new technologies to increase transparency over public procurement and encourage new economic actors to enter bidding processes in the confidence that free and fair competition is applied. By posting all tenders on a common online platform, the occurrence of unpublished tenders and direct awards will be minimised. Use of open contracting and open bidding solutions also allows greater scrutiny of the process, further reducing the scope for corrupt practices. Open contracting systems include a preventive effect because officials will refrain from manipulating the contracting process if they know that comprehensive disclosure of the bidding and contracting processes will be revealed.

Local authorities should ensure that there is a comprehensive system in place to monitor compliance with public procurement legislation, and that there is a responsive mechanism for reviewing appeals and complaints, including prompt and comprehensive replies. Authorities should also monitor contract implementation, in particular time extensions and cost increases, to ensure that the benefits in terms of value for money and quality of delivery are not compromised during contract implementation.

The following international conventions and standards relate to public procurement:

- The **Congress of the Council of Europe's Resolution and Recommendation on Making public procurement transparent at local and regional levels**¹⁰² and the **OECD Checklist for Enhancing Integrity in Public Procurement**¹⁰³ provide guidance for enhancing transparency and promoting integrity in procurement.
- The **OECD Recommendation of the Council on Public Procurement**¹⁰⁴ promotes a strategic and holistic use of public procurement systems across all levels of government and state-owned enterprises. The online **Public Procurement Toolbox**¹⁰⁵ provides policy tools, specific country examples as well as indicators to measure any public procurement system.
- The **WTO Agreement on Government Procurement**¹⁰⁶ establishes rules requiring that open, fair, and transparent conditions of competition be ensured in government procurement.
- The **EU Directive on Public Procurement**¹⁰⁷ ensures the best value for money for public purchases and guarantees the respect of the EU's principles of transparency and competition.
- The **UNCITRAL Model Law on Public Procurement**¹⁰⁸ is a legal template available to governments seeking to introduce or reform public procurement legislation for their internal market.
- The **European Bank for Reconstruction and Development (ERBD) Guide to Electronic Procurement Reform**¹⁰⁹ provides information on and assistance with designing and implementing domestic eProcurement reforms.
- **Open Contracting Data Standard (OCDS)**¹¹⁰ providing open data standard for publication of structured information on all stages of a contracting process: from planning to implementation.

- **UNODC’s (United Nations Office on Drugs and Crime) Guidebook on anti-corruption in public procurement and the management of public finances**,¹¹¹ which provides good practices in ensuring compliance with article 9 of the United Nations Convention against Corruption.
- **World Bank’s Annual Reports**¹¹² – Benchmarking Public Procurement, which have been assessing public procurement regulatory systems in different countries.

Domestic context

The State Procurement Agency of Georgia (SPA) is an independent legal entity of the public law (LEPL) that provides oversight to ensure the legitimacy of government procurement procedures. The Chairperson of the Agency is appointed and dismissed by the Prime Minister of Georgia, while the Government of Georgia approves the structure of the Agency and provides state oversight over its activities.¹¹³ Public Procurement at the municipal level is conducted by relevant Mayors’ Offices using the unified electronic procurement system (tenders.procurement.gov.ge). The Mayors’ Offices are responsible to submit reports on the execution of annual procurement plans to the Municipal Councils.

Legislation

Along with the Constitution of Georgia, the main legislative acts in the area of public procurement in Georgia are the Law on Public Procurement,¹¹⁴ the Statute of the SPA approved by the Government of Georgia,¹¹⁵ as well as international treaties and agreements. Procurement procedures determined by the World Bank, United Nations, EBRD, Asian Development Bank, KfW Development Bank and the European Investment Bank may be applied when conducting public procurement, if these organisations are involved in the legal relations related to implementation of the procurement. The Law of Georgia on Public Procurement determines the general legal, organisational and economic principles for conducting public procurement. The SPA ensures rational expenditure of funds designated for state procurement, promotes healthy competition, ensures a fair and non-discriminatory approach to participants and takes relevant steps for the publicity of procurement information, inter alia through running and maintaining the Unified Electronic System of State Procurement. According to the legislation, dispute over the procurement process is heard by an independent and impartial Dispute Resolution Council, the purpose of which is to resolve cases in a timely, efficient and fair manner. The Council is not a subsidiary of any state entity and/or official.¹¹⁶ At local level, the Mayors’ Offices adopt annual procurement plans, which are later approved by the SPA. Public procurement is conducted by the local financial-municipal departments via the online procurement system. The Mayors’ Offices are responsible to provide Municipal Councils with the report on the implementation of Procurement Plans on an annual basis.¹¹⁷

Guidelines

In order to facilitate the process of online procurement in Georgia, the SPA has developed an E-Procurement User Manual.¹¹⁸ The manual includes the step-by-step approach of the Unified Electronic System of State Procurement directed at suppliers, procuring entities as well as any other interested party at the central and local levels. The Guide for Donor Funds on Electronic Procurement Procedure (DEP) published by the SPA provides a detailed walk-through in the process of donor procurement.¹¹⁹ Moreover, the Guideline to Ethics and Rules of Conduct of Public Employees have been developed by the Civil Service Bureau of Georgia in 2018 containing practical information on various areas of public policy, including public procurement, disciplinary sanctions, public oversight, and whistle-blower protection.¹²⁰

A number of guiding documents on public procurement have also been produced by CSOs in Georgia. The Guidelines on COVID-19 Related Public Procurement provide relevant stakeholders at the central and local levels with practical information on the steps to be taken in the process of conducting procurement aimed at responding to the challenges caused by the pandemic.¹²¹ Moreover, the methodology of

evaluating the level of public procurement transparency, the Transparent Public Procurement Rating (TPPR), includes indicators for evaluating the level of procurement transparency.¹²² According to the TPPR, the public procurement system in Georgia is evaluated with a score of 86.14%.¹²³ Based on the evaluation, the central and local authorities can identify existing gaps and take relevant steps to tackle them. The National Assessment of Georgian Municipalities (LSG Index) includes the aspect of proactive publication of the information on public procurement, thus providing municipalities with guidance on the relevant information to be published on their websites.¹²⁴

Good practices

Electronic innovations for more transparency and efficiency of public procurement¹²⁵ were included as one of the main commitments of the Open Government Partnership (OGP) Action Plan of Georgia 2018-2019. To this end, the SPA developed a webpage with a new visualisation of the database generated by the Open Contracting Data Standard (OCDS) and created an API to access OCDS-based databases (opendata.spa.ge). However, the data published in open contracting standards is not renewed and covers the year 2019 only. A number of public procurement commitments are also included in municipal action plans. The Akhaltsikhe Transparency and Integrity Strategy aims at increasing the number of suppliers participating in public procurement at the local level.¹²⁶ The strategy was adopted in line with the OGP Action Plan of Georgia. A similar action plan was adopted by Telavi Municipality, which aims at reducing the number of direct procurements and strengthening the mechanisms of monitoring the execution of contracts. The Senaki Municipality is committed to adopting a similar action plan.¹²⁷

2.4. 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 relevant laws and rules to support those external to government to hold it to account. As well as audit of the financial statements of local budget institutions, external audit can 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**¹²⁸ focus on the accounting, auditing, and financial reporting needs of central, regional, and local governments, related governmental agencies, and the constituencies they serve.
- The **International Standards of Supreme Audit Institutions**¹²⁹ 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.

Domestic context

The State Audit Office of Georgia (SAO) is an institutionally independent public agency that provides oversight over the use of public funds and 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.

Legislation

The functional and financial independence of the SAO is guaranteed under Article 69 of the Constitution of Georgia. In addition, the work of the SAO is regulated by the Organic Law of Georgia on the State Audit Office, which sets the mandate, responsibility and organisational structure of the SAO.¹³⁰ 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 24¹ of the Law on the State Audit Office, it has an obligation to immediately report possible criminal activity discovered during the audit process.

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.¹³¹ 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.¹³² 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.

Good practices

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 (budgetmonitor.ge). 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.

2.5. FINANCING OF POLITICAL PARTIES

Financing of political parties and election campaigns is a necessary component of the democratic process. It enables the expression of political support and competition in elections.

Principles governing the financing of political parties should include fairness in the distribution of state funding, strict rules concerning the transparency and limits on the size of private donations, ceilings on campaign expenditure, full transparency of funding and expenditure, independent election commissions, independent audit of campaign finance, and the consistent imposition of proportionate sanctions on candidates and political parties that violate the rules (such as fines or a reduction in state contributions to future election campaigns).

International standards

Clear rules and transparent reporting of political campaign financing and expenditures are essential to sustain trust in political candidates, political parties, and government institutions. An imbalance in funding of political parties may result in an unfair advantage, handing undue influence to powerful narrow interests, running the risk that policies will be "captured" by narrow private interests, serving their goals over the public interest.¹³³

Mechanisms and rules on limits on party political financing, and on state financing of political campaigns, should be designed in a way that provides a level playing field for the different political candidates and parties competing in elections and serves to preserve the political forces' independence from financial supporters.

The following international conventions and standards relate to the financing of political parties:

- The **Congress Resolution 402 (2016) on "The misuse of administrative resources during electoral processes"**;¹³⁴
- The **Guidelines and report on the financing of political parties** (Council of Europe, Venice Commission, 2001);¹³⁵
- The **Compilation of Venice Commission Opinions and Reports concerning Political Parties** (Council of Europe, Venice Commission, 2013);¹³⁶

The **Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns**.¹³⁷

Domestic context

Provisions on political party financing are present mainly in two legal acts in Georgia: the Organic Law of Georgia on Political Unions of Citizens (the LPUC) and the Election Code of Georgia (EC). This causes discrepancies in terminology between the acts, ambiguity of the scope of the acts, and extensive referencing between them. International observers to the elections often refer to the blurring of the line between the state and political parties, which is further strengthened by the provision of the Election Code allowing for the unlimited campaigning by high-level public officials. In addition to that, the sanction for misuse of the administrative resources lacks effectiveness as the fine is quite low (approximately EUR 800). Civil society representatives observing elections often complain about the misuse of financial, legislative and institutional administrative resources during election campaigns.¹³⁸

Legislation

The rules governing the funding of political parties are found in the Organic Law of Georgia on Political Unions of Citizens (the LPUC) mentioned above. The LPUC regulates the establishment of parties, their funding and financial management and, as well as termination of their activities. It foresees a mixed system of funding in which political parties are provided with state funding and may finance their activities from certain private sources. In addition, the Election Code contains provisions on funding of election campaigns of political parties and other election candidates.

Guidelines

The State Auditor of Georgia approved a set of guidelines on the issues related to political party financing are available. For instance, decree No. 142/37 of the General Auditor of 17 August of 2012 provides for the approved forms and instructions on the financial reporting with the purpose of ensuring transparency in the financing of political activities. The SAO has purchased the 2017 International Valuation Standards in

the Georgian language from the Georgian Institution of Property Evaluation Experts and on its basis approved the decree of the Auditor General, outlining the standards and methodology to be used for valuing in-kind donations, including non-monetary goods and services which do not have an observable market value and voluntary work performed by professionals.

Good practices

The IDFI studied the cases of political donations that raised suspicions with regards to the integrity of the donors and the legality of their contributions in favour of the ruling party throughout 2019 and before June 3, 2020. The analysis revealed that the most prominent problem in terms of political funding is the fact that the most apparent violations have to do with bypassing requirements established by the law. In other words, the action may be formally in line with the requirements but may in fact contradict the purposes of the law. For this reason, the IDFI has called for the Audit Office to strengthen monitoring efforts, timely identify possible violations, request appropriate justifications, and impose fines on violating entities.¹³⁹

Chapter 3

CITIZEN PARTICIPATION

Introduction

“The right of citizens to participate in the conduct of public affairs”, including at the local level, is explicit in the European Charter of Local Self-Government,¹⁴⁰ the Additional Protocol to which states that “the right to participate in the affairs of a local authority denotes the right to seek to determine or to influence the exercise of a local authority’s powers and responsibilities”.¹⁴¹ When local authorities consult with, and engage, citizens on the design of, and evaluation of, public services, they pave the way for better policy outcomes and also for greater mutual trust between citizens and government.

Citizen participation involves outreach to a range of local stakeholders, such as civil society activists, journalists, members of academia, business representatives, local communities, and active citizens. It is important that it is inclusive, taking into consideration the views of the wider public, expert stakeholders, and representative groups, including the vulnerable and marginalised. Moreover, stakeholder engagement must include outreach to those whose lives and interests will be affected by the implementation of the decisions under consideration. To ensure that such stakeholders are identified, public consultations should be launched before a commitment to action has been made or before a draft decision has been tabled. A more open consultative process first invites stakeholders to discuss and identify the problems, challenges and opportunities, then examines the different policy scenarios, before any decisions are drafted.

Participatory mechanisms can be grouped in the following categories that reflect different levels of engagement:

- informing the public about local priorities, government programmes and plans;
- holding consultations with the public and/or particular groups of people regarding public policies and collecting their experience or expertise;
- collaborating with the public and/or particular groups of people to develop solutions to local problems (including co-creation processes such as in the formulation of Open Government Partnership (OGP) Action Plan commitments);
- engaging local communities in decision-making processes through deliberative processes, voting (such as participatory budgeting and referenda), and other decision-making tools.

According to the Additional Protocol, “the law shall provide means of facilitating the exercise” of the right of citizens to participate. In order to ensure that the above-mentioned forms of participation are genuine engagement rather than token exercises, the consultation process around the formation of new policies and legislation needs to be backed up by laws, regulations and guidelines, and also by strong political will.

Inclusive policymaking must at the same time be effective, and the public should be well informed about their rights, opportunities and ways they can participate in local decision-making. The policymaking processes need to be clearly stated well in advance to enable citizens and stakeholder groups to prepare

their submissions and interventions. Timeframes with clear entry-points for citizen engagement need to be published to ensure that citizen participation is a meaningful exercise, and the local authorities should provide feedback to those who make policy proposals or recommendations. The local authority should ensure that the viewpoints and positions of stakeholders are properly reflected and considered when adopting policies, and feedback should provide clearly stated reasons for the decisions to adopt proposals, or not to adopt them. This inclusive approach ensures that policies are relevant, evidence-based, cater to intersectional needs, and are responsive to public demands.

Local authorities also need to employ officials trained in managing public consultations and ensuring that the feedback to citizens is prompt and comprehensive.

Such inclusive approaches ensure that local authorities make better and more relevant decisions that reflect public interests and are well understood by all citizens. In tandem, local communities can develop a sustained capacity to voice their concerns, design solutions and monitor their proper implementation, resulting in improved public trust towards local service delivery.

General domestic context

The Local Self-Government Code of Georgia introduced in February 2014 has a separate section that not only sets an obligation for municipal public institutions to guarantee citizen participation in the exercise of local self-government as a principle, but also lists forms and tools of engagement.

According to Article 85 of the Local Self-Government Code, forms of public participation are: a General Assembly of a Settlement;¹⁴² a Petition;¹⁴³ The Council of Civil Advisors;¹⁴⁴ Participation in the sessions of the City Assembly and the sessions of its commission;¹⁴⁵ Hearing reports on the work performed by the Mayor of the municipality¹⁴⁶ and by a member of the Municipal Council; and Participation in budgetary process.

Despite the adoption of the mentioned participatory mechanisms, studies showed that they were not implemented properly. In particular, based on the national assessment of all local municipalities (see LSG Index, 2019), the Council of Advisors were not created in all municipalities, only 26 mayors held public hearings of their performance reports, and citizen participation programs were observed only in the budgets of two municipalities.¹⁴⁷ The new vision of Decentralisation Strategy 2020-2025 addresses this issue and aims to strengthen active participation by introduction of new citizen participation mechanisms.

3.1. OPEN POLICYMAKING

Open policy making is a broad term describing policy development that is transparent and participatory. It describes a way of making policy and decisions that draw on the latest interactive tools that open up policymaking to different stakeholders in an increasingly digital world. There is no one-way to do open policy making: different policy decisions will need different approaches.

International standards

Open policy making approaches enable governments to reach more informed and better designed policy outcomes through collaborative approaches that draw on a variety of perspectives and expertise. Different digital tools and analytical techniques are deployed so that policy is more evidence-based and

data-driven. Models of engagement can include a representative citizens panel, crowdsourcing of policy ideas, or the use of collective intelligence to draw on the knowledge and expertise of a diverse public.

By the use of open data and citizen engagement, more informed, inclusive decisions can be reached, and more innovation applied in both the policymaking process and the resulting policy decisions. To maximise the possible gains of open policy making, local authorities could set up an open policy making team that publishes the data used to inform and shape policy decisions. and trains public officials in working with data to inform policymaking.

Although there are no specific open policy making standards, the following are useful points of reference:

- The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**¹⁴⁸ provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation.
- The **Council of Europe's Guidelines for civil participation in political decision making**¹⁴⁹ sets out standards for engaging with citizens and civil society.
- The **Committee of Ministers of the Council of Europe's Recommendation on the participation of citizens in local public life.**¹⁵⁰

Domestic context

Policymaking 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 policymaking is absent in Georgia; the quality of transparency and citizen participation is different in all central and local public institutions. Transparent, participatory and collaborative policymaking is critically important for successful implementation of the Public Administration Reform and represents one of its key pillars. In recent years, open policymaking 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 policymaking 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 the way to the OGP Sub-National Initiative, which aims to bring open government to the local level. In order to strengthen the co-creation process and secure implementation of the ambitious commitments throughout the country, elaboration of OGP commitments at national as well as local level involves the active participation of local and civil actors.

Legislation

At the central level, there is no legal framework for ensuring open policymaking; however, as mentioned above, the Local Self-Government Code of Georgia has a specific chapter, which sets framework for open policymaking.¹⁵¹ 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 policymaking stipulated in the law are establishment of the Council of Civil Advisors, participation in the formation of the budgetary priorities, and access to information.

The Local Self-Government Code of Georgia envisages forms of open policymaking such as a general assembly of a settlement; a petition; a Council of Civil Advisors; participation in the sessions of the municipal council and the sessions of its commission; hearing reports on the work performed by the Mayor of the municipality and by a member of the municipal council.¹⁵²

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.

Good practices

In 2016, 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.¹⁵³ 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 the public scrutiny.¹⁵⁴ The working group established within 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, the civil society and City Hall representatives actively collaborated on developing the contents of the action plan. Tbilisi Action Plan for 2017 includes five commitments aimed at improving citizen engagement in the decision-making process, as well as transparency and accountability of local public institutions.

The Supreme Council of Adjara Autonomous Republic (SCA) decided to institutionalise implementation of open government principles and adopted amendments to the Rules of Procedure, thereby establishing a permanent Open Governance Council within the SCA.¹⁵⁵ In order to support activities of the Council, a SCA Consultative Group was established, composed of representatives of local civil society organisations, and international organisations working in Adjara.¹⁵⁶ The Consultative Group presented the proposals and recommendations to the Open Governance Council of the SCA during elaboration of the OGP Action Plan and is supporting the Open Governance Council in the efficient implementation of undertaken commitments. In August 2020, the SCA's OGP Action Plan was adopted, consisting of 15 commitments, which aims to improve citizen engagement, access to information and accountability at the regional level.

3.2. PARTICIPATORY BUDGETING

One of the crowdsourcing forms of citizen participation, participatory budgeting invites citizens and community groups to propose new initiatives or improvements to public services that should be funded by the local authority. Different models include voting by citizens, often online, on different projects. 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 promote transparency, which in turn can help reduce inefficiency and corruption.

International standards

Participatory budgeting began in Porto Alegre, Brazil, in the late 1980s and has spread worldwide. To ensure that participatory budgeting is inclusive and reaches out to different groups, including minority

groups and the disadvantaged, both online and in-person information events need to be organised, and support provided to citizens and different community groups and stakeholders in how to prepare a proposal for consideration. The introduction of gender-sensitive participatory budgeting can increase outreach and accessibility and can be planned in close co-operation with local civic groups with a focus on inclusion.

Although there are no specific standards for implementing participatory budgeting, the following serve as important reference materials:

- The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**¹⁵⁷ provides an international legal guarantee to this right, including the implementation of measures that would facilitate its exercise.
- The **Congress of the Council of Europe's Resolution on Gender budgeting**¹⁵⁸ recommends introducing gender budgeting methods in the annual budgets at local and regional levels.
- The **OECD Policy Brief No. 22**¹⁵⁹ provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.
- The **World Bank's book *Participatory Budgeting***¹⁶⁰ 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**¹⁶¹ explores how to implement participatory budgeting.
- The **World Atlas of Participatory Budgeting**¹⁶² represents the widest compilation of data on the situation of these processes worldwide.
- The **UK's Participatory Budgeting Unit has a useful list of resources and toolkits.**¹⁶³
- The **Subnational Open Budget Survey Questionnaire**¹⁶⁴ 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**¹⁶⁵ of the Global Initiative for Fiscal Transparency.

Domestic 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 towards improving the legislative framework and infrastructure. Currently in Georgia exist limited mechanisms for participatory budgeting. 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 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 over the spending process, which will improve public oversight and accountability in the municipality.

As a positive development, several municipalities have started development of participatory budgeting practices over the past years. As of 2019, nine municipalities are implementing participatory budgeting: Batumi, Ozurgeti, Zugdidi, Mestia, Tskaltubo, Kutaisi, Akhaltsikhe, Gori and Signaghi.¹⁶⁶ Based on the initiative, a particular amount of money is considered in the municipal budget for public initiatives. Citizens and initiative groups are enabled to submit their ideas to a particular city hall and a special committee decides which initiative to support.

Recognising participation as an important tool to ensure transparency in budgeting processes, Government of Georgia's OGP Action Plans consider the development of institutional mechanisms

necessary for participatory budgeting schemes. The main objective of the commitments envisaged under both 2016-2017 and 2018-2019 Action Plans is to ensure better management of public resources through a higher citizen engagement in the budgetary processes. Open government principles commit to raise budget transparency by increasing civil participation through technology and innovation.

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. However, a few municipalities committed themselves to develop such a participatory mechanism and allocated a specific amount of financial resources in their annual budgets. Also, the participation of the public in the budgetary process is made possible through 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 15th 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 November 25. The Mayor returns the revised budget to the City Assembly before December 10, which is then adopted before the end of the year. According to the legislation, there are two windows, from November 20 to November 25 and then from December 10 to December 31 to publicly discuss and adopt the budget.¹⁶⁷ 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.

Guidelines

With the support of development partners, the Ministry of Finance has developed a Citizen's Guide for the 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.¹⁶⁸

In addition, with the support of the German Agency for International Co-operation (GIZ) a detailed guidebook on participatory budgeting was prepared, which outlines the essence, aim, historical background, international best practices, basic models, regulatory frameworks, as well as the ways, means and tools for participatory budgeting.¹⁶⁹ The guidebook can be useful not only for local authorities, but also for other stakeholders to effectively contribute to the participatory budgeting process.

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.

Good practices

The Municipality of Zugdidi has successfully implemented a participatory budgeting programme since 2020. GEL 1 million was allocated from the municipal budget for civic initiatives. The total amount is equally divided among five administrative districts (GEL 200 000 for each) and citizens are allowed to submit their ideas. As of 2020, a total of 39 civic ideas were submitted by citizens for further consideration before approval.

The commitments of the OGP Action Plan of Georgia for 2016-2017 aimed to respond to the challenge of effective management of public resources. Transparency and openness of public resource allocation was part of the commitments of local governments, focused on promotion of development of participatory

budgeting schemes. To specifically increase public access to information and promote civic engagement in budgetary planning processes, four municipalities in Georgia introduced electronic mechanisms for budget planning: Akhaltsikhe Municipality City Hall, Batumi Municipality City Hall, Kutaisi Municipality City Hall, and Ozurgeti Municipal Council.

Furthermore, the participatory budgeting mechanism “Plan Your Municipal Budget” has been developed within the framework of the action plan and new websites for Kutaisi (kutaisi.gov.ge) and Akhaltsikhe Municipalities (akhaltsikhe.gov.ge). By 2020, local residents in various municipalities of Georgia, where participatory budgeting mechanism was introduced, took part in selection process of 126 projects financed by the municipalities.¹⁷⁰

The OGP Action Plan of Georgia for 2018-2019 extended the responsibility to improve citizen engagement in budgetary processes to Batumi Municipality through introduction of an institutional mechanism of participatory budgeting. The OGP Commitment¹⁷¹ also envisaged approval of the relevant legislative framework for introduction of an institutional mechanism of participatory budgeting and raising awareness of citizens concerning participation mechanisms. The participatory budgeting mechanism of Batumi (idea.batumi.ge) is actively used by its residents.¹⁷²

3.3. 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 can increase the quality of decision making, improve cost-effectiveness, render more sustainable policy solutions, and generate greater public trust in decision-making.

International standards

Different forms of consultation range from informing and consulting citizens to crowdsourcing ideas for policies, deliberative debates and assemblies where citizens can develop potential policy solutions to inform decision-making, and collaboration where social enterprises, civil society organisations or expert groups either participate in the design or delivery of services.

To improve both the inclusiveness and efficiency of public consultations, each local authority should aim to have a unit that takes responsibility for co-ordinating the guidelines and procedures for implementing public consultations, and for ensuring that they are in accordance with the prevailing legislation. Such a unit could also train officers in different departments on running public consultations. In the case of smaller local authorities with more limited resources, a unit in the central government’s responsible ministry, such as a ministry of regional development, could provide such training and support on co-ordinating and updating guidance and procedures for public consultations at the local level.

Although there are no specific standards for implementing public consultations, the following are useful reference materials:

- The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**¹⁷³ provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as consultative processes and local referendums.

- The **OECD Background Document on Public Consultation**¹⁷⁴ defines consultation and provides a summary of consultation tools.
- The **Council of Europe's Guidelines for civil participation in political decision making**¹⁷⁵ set out the different types of civil participation in decision making.
- The **Committee of Ministers of the Council of Europe's Recommendation on the participation of citizens in local public life**.¹⁷⁶
- The **OECD Recommendation of the Council on Open Government**¹⁷⁷ supports initiatives for designing and delivering public policies and services, in an open and inclusive manner.
- **Reaching Out: Guidelines on Consultation for Public Sector Bodies** sets out good practice in the Republic of Ireland.¹⁷⁸

Domestic context

Public consultations on policy documents are fragmented and take place 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 municipal infrastructural projects, and etc.

The Open Government Partnership in Georgia aims at extending commitments in the Action Plans to local governments in order to ensure, that each citizen can benefit from open government principles. For the purposes of promoting civic engagement and local government accountability mechanisms, responsibilities under the OGP Action Plans support public awareness raising and effective information delivery concerning decision-making processes at local level. With the aim to promote citizen engagement in the activities of the local authorities, the development of online mechanisms and modern technologies to simplify access to public information is implemented under the framework of the OGP Action Plans.

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 Law of Georgia on the Environmental Assessment Code, public consultations are a mandatory component for conducting EIA and its findings should be annexed to the report.¹⁷⁹ 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 residents of the local municipality. 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.

Guidelines

There are no national guidelines with regard to conducting public consultations in Georgia; however, the Policy Planning System Reform Strategy lists public consultations as one of the criteria for evaluating the quality of policy documents.¹⁸⁰

On 20 December 2019, the Government of Georgia adopted the Decree #629 on the Rules of Development, Monitoring and Evaluation of Public Policy Documents.¹⁸¹ Among other topics, the decree includes the description of public policy development stages and the regulations to ensure participation of relevant stakeholders in the process. The rules came into force on 1 January 2021. Even though the document is meant to positively change the situation, it does not reflect high standards of citizen participation. Namely, the rules only make it mandatory to ensure citizen participation in policy development after the draft of a policy document is elaborated, while at relatively early stages the citizen engagement only has a recommendatory character.

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 encouraging citizens to participate in the hearings of Municipal Councils. It is recommended to adopt an internal mechanism that will be aimed at assessing existing levels and practices of public consultations and developing specific commitments that will address the identified challenges.

Good practices

The Council of Civil Advisors of the Batumi Municipal 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 the 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 the Rules of Procedure of Batumi Municipal 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 (marte.ge/sabcho).

It is also noteworthy, that Batumi and Rustavi Municipalities had the highest scores (87% and 72%, respectively) in the 2019 National Assessment of Georgian Municipalities (LSG Index) ranking in terms of development of participatory mechanisms envisaged under the Local Self-Government Code of Georgia.¹⁸²

Raising awareness regarding activities of local self-government bodies and promoting civil participation in the decision-making process has been one of the goals of the OGP Action Plan of Georgia for 2018-2019. In this context, the development of modern civic engagement technologies has been promoted at municipal level. Particularly, Zugdidi Municipal Council undertook the responsibility to generate the multifunctional mobile application "I.Gov.Zugdidi", which includes informative and feedback mechanisms. The application ensures wide access to the activities of the Municipal Council, such as: municipal schedule, regular sessions and agenda; dates of various cultural or sport events; tentative start and end dates of infrastructural projects, etc. The application also enables citizens to obtain information

about the municipal healthcare and social welfare programmes, their details and a list of documents to be submitted to the City Hall for that purpose.

Promotion of citizen engagement and access to information has been upheld under the Tbilisi OGP Action Plan 2018-2020, including the responsibility of Tbilisi City Hall to elaborate an integrated web application for citizens (ms.gov.ge). The application, also available for other municipalities of Georgia, ensures online access to the most demanded interconnected services within the City Hall system, with the aim to establish a single-window system within the scope of these services. The application will also be available in the form of the mobile app. The format will take into account the mechanism of reporting by citizens concerning the process of the implementation of various services. This information will be subject to periodic analysis, and the results will be publicly available and directed to improving existing services.

3.4. 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 raised. They aim either to raise the profile of the issue or to demand that specific actions be 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

It is important that the official response is provided promptly, and that clear and well-argued reasons are provided for the decisions taken or not taken in response to a public petition.

For public petitions to become a tool that resonates with the wider public, local authorities and civil society organisations should raise awareness of the nature of petitions and the procedures for gathering signatures and submissions of the petitions in their municipalities. Clarity should also be given on the status of electronic signatures to ensure that there is full transparency about the conditions that a public petition must satisfy to receive an official response.

The following international conventions and standards relate to public petitions:

- The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**¹⁸³ provides an international legal basis for this right, including the establishment of measures to ensure citizen participation, such as public petitions.
- The **OECD's Promise and Problems of e-Democracy**¹⁸⁴ provides information on the value and challenges of establishing an online petitioning platform.

Domestic context

Currently, petitions are not systematically submitted to central and local public institutions in Georgia. Nevertheless, citizens actively use unofficial online petition instruments (e.g. manifest.ge). 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.

Development and improvement of e-participation and electronic petitioning standards in Georgia has been one of the key priorities of Georgia's OGP Action Plans. Related commitments contribute to development of modern technologies in order to implement and operate petitioning systems within public institutions both, at central and local levels.

Legislation

Articles 85 and 86 of the Local Self-Government Code also provide for possibility to submit petitions to the Municipal Council. The petition can be submitted by at least 1% (or less than 1% if determined by the Municipal Council) 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 Municipal Council, preparing a resolution of the Municipal Council or considering 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 Municipal 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 Municipal Councils.¹⁸⁵

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.¹⁸⁶ 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:

- proper and timely information of the authors of the petitions and proactive disclosure of information related to the petitions;
- increasing the awareness of the broader public with regard to the nature of petitions and procedures of their submission in order to activate the petitions mechanism in the municipalities;
- Through a decree of the Head of the Municipal Council, determining 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.

Good practices

The practices of initiating petitions vary in each municipality of Georgia. Based on the results of the 2019 National Assessment of Georgian Municipalities (LSG Index), at least one petition was submitted in 16 municipalities, out of which 6 Municipal Councils followed and met all procedural requirements when discussing and assessing the civic initiatives.

An interesting and successful initiative from Poti Municipality can be highlighted: local activists used an online petition module developed on the website of the City Hall to register a petition and accumulate support on the instalment of a station to monitor the quality of the air.¹⁸⁷ After a successful advocacy campaign, the petition was considered by the local authorities and implemented.

Tbilisi Municipality has also taken steps towards raising civic involvement in decision-making processes by developing electronic petitioning mechanisms. Within the framework of Tbilisi OGP Action Plan for 2017, the municipality undertook the responsibility to introduce a mechanism for electronic petitions to Tbilisi City Hall, by integrating a petitioning application (to the Mayor) onto the City Portal. The e-petitions portal (idea.municipal.gov.ge) has been actively used by residents of Tbilisi. After launching the portal, more than 1 000 ideas were submitted, and more than 20 applications gathered the required minimum number of signatures to be considered by the City Hall.

3.5. LOCAL REFERENDA

Local referenda, which are widespread in Council of Europe member States, provide a mechanism for local authorities to sound out the citizens' will on concrete issues that directly affect their everyday lives or for citizens to propose an initiative that they would like to see implemented, or even to block a planned decision.¹⁸⁸

International standards

When initiated by citizens or groups of stakeholders, a referendum might form part of a campaign against a perceived harmful impact on their livelihoods or the natural environment, such as a plan for a new industrial park, a tunnel to re-route cars under a river or some other urban development.

Where there is both legislation providing for local referenda, and guidelines on how to hold referenda, there is usually a minimum percentage of the eligible voting population whose signatures are required to initiate a referendum. In some cases, the mayor or elected council can also decide to formulate a question for a local referendum. Depending on the legislative framework, the referenda may be binding on the local government or consultative, where the final decision rests with the elected council.

It is important that the legislation and procedures are clear, so that citizens know the framework within which the results of a referendum will be acted upon, and what response is required from the executive or elected council of the local authority. As with public petitions, it is important to raise awareness of the procedures for gathering signatures and the status of electronic signatures to ensure that there is full transparency about the conditions that need to be met before a referendum will take place. Transparency on political party financing should also be applied to the funding of a referendum campaign, including ceilings on expenditure, and an independent audit of funding and expenditure.

The following international conventions and standards relate to local referenda:

- The **European Commission for democracy through law (Venice commission), code of good practice on referendums**¹⁸⁹ – provides the principles of holding referendums and practical advice on how to implement those principles.
- The **Council of Europe Committee of Ministers' Declaration on the Code of Good Practice on Referendums**¹⁹⁰ – invites public authorities in the member states to be guided by the Code of Good Practice on Referendums.
- The **Congress of Local and Regional Authorities, Resolution 472 (2021) on Holding referendums at local level**¹⁹¹ – provides guidelines for member States to use local referendums responsibly and according to Council of Europe standards,
- **UN Sustainable Development Goal 16: Peace, Justice and Strong Institutions; Target 16.7**:¹⁹² Ensure responsive, inclusive, participatory and representative decision-making at all levels.

Domestic context

In Georgia a referendum can only be held on the whole territory of the country. No local referenda are allowed by law.

A referendum is held to finally resolve particularly important state issues and may be appointed by the President of Georgia requiring the signature of the Prime Minister of Georgia, unless the referendum is convened at the request of the Government of Georgia. The President of Georgia has the right to call a referendum at the request of the Parliament of Georgia, the Government of Georgia or at least 200,000 voters.

According to the law, the issue presented in the referendum is considered supported by the voters if more than half of the participants voted in its favour. The decision adopted as a result of the referendum can be changed or revoked only by referendum. The Constitutional Court of Georgia has the right to invalidate the results of the referendum in accordance with the rules established by law.

Another form of referenda in Georgia is the advisory referendum or “plebiscite”, which is regulated in the same way as the referendum with the exception that the result is not legally binding for a government.

Legislation

The law of Georgia on referendum regulates the rules and procedures of holding referenda and plebiscites in Georgia.¹⁹³ According to the law a referendum may not be held:

- To pass or repeal a law;
- On amnesty or pardon;
- On the ratification or denunciation of an international treaty;
- On an issue that provides for the restriction of fundamental human rights.

Disputes related to the norm regulating the referendum and the constitutionality of the referendum conducted, or to be conducted is considered by the Constitutional Court of Georgia on the basis of the Organic Law.

Guidelines

The webpage of the Central Election Commission provides some general information on referenda – mainly referring to the existing legal provisions. There are no guidelines or handbooks on the issue.

Good practices

At the moment there are no examples of relevant case law.

Chapter 4

CORRUPTION RISKS

Introduction

In the absence of ethics and public accountability, corruption and malpractice are 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 poses a great threat to sustainable development, increasing poverty and inequality. Consequently, strengthening local self-government and their active participation in the fight against corruption is one of the essential preconditions for democratic development. Corruption at the local level is a specific phenomenon and requires a specific approach tailored to municipalities.

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-interest of decision-makers 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.

One of the major challenges for societies worldwide is the development of accountable and transparent systems that provide effective public services. Because of their proximity to the public, local governments are well positioned to deal with this challenge and to fight and prevent corruption at local level.

Under the current trend of decentralisation, local authorities are given not only resources, but also the discretionary power to use those resources. Thus, local governments have the potential to either reduce corruption and improve public services at the local level or, conversely, increase corruption and worsen the quality of service delivery.

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 positions on the basis of criteria other than merit, result in poor-quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, they result 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.

General domestic context

Georgia has made significant progress in the fight against corruption in recent years and, despite its current challenges, is a leader in the region, as evidenced by various international surveys and rankings. In 2005, Georgia ranked 58th out of 130 in the Transparency International Corruption Perceptions Index, and in 2016, it ranked 44th in the same survey.¹⁹⁴ The positive impact of intensive anti-corruption measures has been reflected in increasing confidence in Georgia's economy by local and international businesses, which has led to growing prosperity and the recognition of Georgia as a regional leader in democratic reforms around the world. Nevertheless, the rankings published by international organisations in 2019-2020 indicate a deterioration in the fight against corruption in the country.¹⁹⁵ This situation is also highlighted in the 2018 resolution of the European Parliament,¹⁹⁶ according to which high-level corruption remains a serious problem in the country. It is also noted by the Transparency International's study of anti-corruption mechanisms in Eastern Europe and Central Asia, according to which, despite the need, the government has not yet established an independent anti-corruption agency.¹⁹⁷

According to the Transparency International - Georgia survey on the anti-corruption system of Georgia in 2020 one of the major challenges to the country's anti-corruption system is the informal influence on government activities, concentration of power, and virtually complete control by the ruling party over a large part of public institutions.¹⁹⁸

In order to prevent corruption, it is important for Georgia to faithfully follow the recommendations of international anti-corruption institutions. As of 2021, almost 70% of the Council of Europe Group of States against Corruption recommendations¹⁹⁹ for the prevention of corruption are not fully implemented.

Strengthening the role of local governments in the development and implementation of anti-corruption policies was identified as one of the commitments in the National Anti-Corruption Strategy adopted in 2015, which was assessed by the Anti-Corruption Network of the Organisation for Economic Cooperation and Development (OECD-ACN) in its fourth round monitoring report. At the same time, corruption at the local level is a specific phenomenon and requires a tailored approach, for which the OECD-ACN has recommended that Georgia should facilitate development and implementation of anti-corruption strategic documents at the local level.²⁰⁰

Anti-corruption legislation in Georgia consists of several laws and by-laws. The Law of Georgia on Conflict of Interest and Corruption in Public Institutions establishes the basic principles of detection and prevention as well as the principles of liability of persons who commit corruption. The law also regulates submission and monitoring of assets declarations of officials as well as the basic principles of protection of whistle-blowers and general standards of ethics and conduct.²⁰¹

Within the framework of anti-corruption legislation, the Law of Georgia on the Internal State Financial Control²⁰² sets the rules and principles of implementation of the state internal financial control mechanism, financial management and control, as well as internal audit issues. The budget-related process is regulated by the Budget Code of Georgia,²⁰³ which defines the rules of preparation, review, approval, execution, reporting and control of draft budgets and responsibilities.

The Law of Georgia on State Procurement²⁰⁴ sets out the general legal, organisational and economic principles of public procurement. The normative act regulates the issues related to the means of procurement, monitoring and control of procurements.

The Criminal Code of Georgia criminalises corruption, which includes such crimes, as offering/giving a bribe, accepting a bribe, embezzlement, fraud, etc. These crimes are discussed below in detail.

4.1. 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**²⁰⁵ 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**²⁰⁶ specifies a series of measures to help organisations prevent, detect and address bribery.
- The **OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance**²⁰⁷ which supports the convention on combating bribery.

Domestic context

In 2020, 33 instances of receiving/requesting a bribe were registered by the law-enforcement agencies, out of which in 55% of cases investigation was concluded, compared with 63 registered cases in 2019, out of which 41% were successfully prosecuted. As for offering/giving a bribe, nine cases were registered and six were successfully prosecuted in 2021, compared with 10 registered and six successfully prosecuted cases in 2019.²⁰⁸

According to the Business Bribery Risk Index published by Trace International, in 2020 Georgia was ranked 28th among 200 countries, which determines business-related corruption risks. The risk score remained the same as that of 2019, but worsened compared to 2017, when Georgia was ranked 25th among 200 countries with the risk score of 23 out of 100. Out of four assessed areas (Opportunity, Deterrence, Transparency, Oversight), the worst situation was observed in Georgia in terms of deterrence of corruption.²⁰⁹

According to the 2020 Corruption Perceptions Index, published in January 2021 by Transparency International, Georgia was ranked 45th out of 180 countries with the score of 56. The index worsened compared to the previous years as in 2018 Georgia was in 41st place with the score of 58.²¹⁰

Despite positive trends with regard to petty corruption, public opinion polls show, that Georgian citizens consider complex forms of corruption a challenge. In particular, 63% of Georgian citizens think that abuse of power by public officials is common.²¹¹ As for the reasons behind the abuse of power by public officials, Georgians believe that their goals include employing family members and relatives (92%), protecting their own business (90%), embezzling public funds (81%), and getting bribes in exchange for "settling" problems (60%).²¹² In addition, 3% of respondents named corruption as the most important national problem in the country.²¹³

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 from 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 10 000 Georgian Lari (GEL)), 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 may be a fine, community service, house arrest or imprisonment, also depending on aggravating circumstances such as facilitating another criminal act or committing a group act.

Example of case law

The officers of the anti-corruption agency under the State Security Service of Georgia detained G.G. - Kobuleti Municipality governor of Mukhaestate village for bribery in large quantities. The investigation

established that G.G. promised a citizen of Turkey to provide space for a nut processing factory and demanded GEL 20 000 for the assistance. G.G. received a part of the demanded money, GEL 4 000. The law enforcers detained G.G. on the fact of bribery. As of summer 2021 investigation is on-going on the fact of bribery in large quantities (article 338, part II of the Criminal Code of Georgia, which envisages from 7 to 11 years of imprisonment).²¹⁴

4.2. 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 potential –²¹⁵ 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 **Committee of Ministers of the Council of Europe’s Recommendation on Codes of Conduct for Public Officials**²¹⁶ and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**²¹⁷ cover the general issues normally thought to be necessary for avoiding such conflicts.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Conflicts of interest at local and regional level**²¹⁸ propose a set of measures to mitigate the risks of conflict of interest and ensure that it is identified at an early stage.
- The **OECD Guidelines for Managing Conflict of Interest in the Public Service**²¹⁹ identify principles and standards for developing policies.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Making public procurement transparent at local and regional levels**²²⁰ and the **OECD Checklist for Enhancing Integrity in Public Procurement**²²¹ provide guidance for enhancing transparency and for promoting integrity in procurement.

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

- The **United Nations Convention against Corruption**²²² is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²²³
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**²²⁴ 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)**²²⁵ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**²²⁶ aims to fight corruption involving officials from the EU or its Member States.
- The **OECD Recommendation on Public Integrity**²²⁷ shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.

Domestic context

Although conflict of interest represents a significant challenge for Georgian integrity system, there is practically no administrative data related to such instances. Civil society organisations and investigative

media often highlight cases of possible conflict of interest; however, law enforcement agencies fail to follow up on such cases.

Despite the fact that there are no public perception surveys related to conflict of interest in Georgia, there has been significant public interest towards addressing these challenges. Specifically, the scope of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions has been expanded over the years and now covers various representatives of central, municipal, legislative, judicial and independent public agencies. Besides mayors, their deputies and heads of the structural units of city halls are also regarded as public officials according to the Local Self-Government Code,²²⁸ which makes them subject to the regulations of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions.

In addition, in 2017 a monitoring mechanism of asset declarations was established.²²⁹ The electronic system for randomly selecting declarations was developed and the first commission for monitoring of asset declarations was set up. The commission selects declarations of high officials to be monitored in addition to those selected randomly by a machine. The composition of the commission is determined by the head of the Civil Service Bureau. Civil Servants may not be members of the Commission. Annual monitoring of asset declarations of high-ranking officials has been conducted since 2017.²³⁰ The monitoring results and respective reports are available on the website of the Civil Service Bureau of Georgia (csb.gov.ge).

In spite of the establishment of the monitoring mechanism of asset declaration and broadening the scope of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions a number of challenges remain. There is no dedicated agency with the functions of policy development, oversight of the implementation of conflict of interest regulations, including the application of sanctions, methodological guidance, and individual counselling. Despite allegations brought to the public by the media and non-governmental organisations, there is no practice of sanctioning high officials for violation of conflict of interest rules.

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) 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 law on conflict of interest and corruption in civil service obliges civil servants to inform their superior on *ad hoc* conflicts of interest and with the superior's written consent, a decision is made on conflict of interest in individual cases. A public servant has to declare the person related to them, who works in the same public institution where the public servant works, within one month from the appointment or election to the relevant position, and then before February 1 of each following calendar year.

The law does not provide for special regulations on MPs, judges, prosecutors, members of government, members of local and regional councils. The law, however, exempts MPs, president, prime-minister and members of parliaments and heads of governments of autonomous republics from declaring *ad hoc* conflicts of interest (Article 11.4). There are no special codes of ethics or other legal acts regulating conflict of interest for members of regional and local councils.

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, deprivation of the right to hold a position and/or imprisonment.

Example of case law

In the recent years, there have been no judicial proceedings related to conflicts of interest of public officials. Still, there are examples of alleged conflict of interest cases reported by non-governmental organisations and the media. For instance, there were cases of conflicts of interest within the Ministry of Culture, in which companies connected with high-ranking officials at the Ministry of Culture received a total of GEL 2 421 743 from various public agencies through simplified public procurement contracts as well as direct funding. There were also allegations against other officials,²³¹ on acceptance of prohibited gifts by high level officials,²³² business interests of ministers and deputy ministers.²³³ There was another report by the media regarding the member of the Parliament who allegedly purchased (through an auction) real estate from a municipality that belonged to a district represented by him in the legislative body. 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 contract. Although the person in question 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.²³⁴

4.3. 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**²³⁵ is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²³⁶
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**²³⁷ aims to coordinate 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)**²³⁸ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**²³⁹ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

The data shows that embezzlement was the most frequently committed financial crime in Georgia, with 2,155 cases recorded from 2004 to 2014.²⁴⁰ 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 the statistics for 2019 and 2020 published by the Ministry of Internal Affairs, no separate figures were shown for each type of financial crime, and the total number of registered crimes was 217 in 2019 and 232 in 2020.

In 2017, house arrest from 6 months to 2 years was introduced for embezzlement without aggravating circumstances in addition to a fine and imprisonment.

Legislation

Georgian legislation²⁴¹ defines embezzlement as misappropriation of someone else's property or property right if this property or property right was under their rightful possession. Aggravated circumstances for the embezzlement are present when the act is committed by a group, repeatedly, using official position, with large amounts, etc.

Example of case law

The officers of Anti-corruption Agency of State Security Service of Georgia in cooperation with the Tbilisi Municipality City Hall detained the former head of Administration of the LEPL "Agency for Development of Municipal Services" on facts of misappropriation of another person's property in large quantities through the use of one's official position and appropriation of another person's property in large quantities by deceit; a factual owner of Ltd. "Techracer" was also detained on the fact of providing assistance in unlawful appropriation of other person's property using official position.

Investigation established that the former head of Administration of LEPL "Municipal Services Development Agency" purchased 23 computers from LTD "Techracers" for an increased price, while unlawfully appropriating the difference through assistance provided by the director of LTD. "Techracer" and a factual owner of the same company.

Furthermore, the former head of the Agency's Administration, upon his own recommendation, in August 2019 employed two persons at the LEPL Municipal Services Development Agency", who, in accordance with prior agreement with him, did not carry out their responsibilities, did not go to the office and had handed out their salary cards to the former head of the Administration; the latter has unlawfully appropriated the sum of money in the amount of GEL 29 000, transferred in the name of the mentioned persons.

Investigation is carried out on the facts of fraud in large quantities, embezzlement in large quantities by using of official position, misappropriation of other person's property in large quantities by deceit and providing assistance in unlawful appropriation of other person's property in large quantities by using official position (Article 180, paragraph III, sub-paragraph "A" and "B", Article 182, paragraph II, sub-paragraph "D" and paragraph III, sub-paragraph "B" which envisage from 7 to 11 years of imprisonment). Investigation is carried out by the Anti-corruption Agency.²⁴²

4.4. 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**²⁴³ is the only legally binding universal anti-corruption instrument.

- It is supported by this **Technical Guide to the Convention**.²⁴⁴
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**²⁴⁵ aims to coordinate 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)**²⁴⁶ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**²⁴⁷ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

In 2014 there were 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.²⁴⁸ According to the information published by the Ministry of Internal Affairs 1493 cases of alleged fraud were registered in 2020 out of which 314 (21.03%) were successfully investigated compared to 1846 alleged cases registered in 2019 out of which 421 (22.81%) were successfully investigated.²⁴⁹ As it is clear, this type of crime has increased in recent years while the rate of its successful prosecution has decreased significantly.

There are no publicly known efforts undertaken by law enforcement agencies to prevent instances of fraud. In addition, the 2019-2020 National Anti-Corruption Action Plan does not include any activities related to combating fraud. The New Anti-Corruption Action Plan for 2021-2022 has not been elaborated yet.

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 and/or imprisonment, 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 24 June 2020 the officers of the Anti-corruption Agency of the State Security Service of Georgia detained a staff scientist of LEPL “Union of cultural, arts, educational institutions” of Kutaisi City Hall. Investigation established that the detainee demanded GEL 800 from a citizen and took GEL 400 in advance in exchange for starting employment in Kutaisi City Hall. Investigation is ongoing into the fact of attempted fraud that might have caused substantial damage, which envisages imprisonment for a term from 4 to 7 years.²⁵⁰

4.5. 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**²⁵¹ is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²⁵²
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**²⁵³ aims to coordinate 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)**²⁵⁴ defines common international rules for effective remedies for persons affected by corruption.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Fighting nepotism within local and regional authorities**²⁵⁵ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- The **European Union’s Convention against Corruption Involving Officials**²⁵⁶ aims to fight corruption involving officials from the EU or its Member States.

Domestic 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 2019 survey, 59% of interviewed individuals think that officials in Georgia abuse power and 91% of those think, that officials do it to assist relatives and friends with employment.²⁵⁷

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 Georgia²⁵⁸ as well as the Code of Conduct, adopted by the Governmental Decree in 2017.²⁵⁹

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.²⁶⁰ Transparency International Georgia has identified around 70 cases of alleged nepotism in municipalities of Georgia, where spouses, children and parents of local public officials were employed either within the same public institution or in municipal agencies related to the public officials. For example, in 2017, the spouse of the Chairwoman of Oni Municipal Council was appointed as manager of public relations of the club at N(N)LP Oni Sports School, a Non-Entrepreneurial (Non-Commercial) Legal Entity under the governance of the municipality.²⁶¹

4.6. MISUSE OF ADMINISTRATIVE RESOURCES IN ELECTION CAMPAIGNS

The misuse of administrative resources²⁶² during the electoral processes involves unlawful or abusive behaviour on the part of politicians and civil servants, who use human, financial, material, *in natura* and other immaterial resources to influence the outcome of elections, and thus undermine the fairness of the election itself.

International standards

As one type of corruption, the misuse of administrative resources in election campaigns is covered by the following international standards and guidelines:

- The **United Nations International Covenant on Civil and Political Rights**²⁶³ (Articles 19, 21, 22 and 25), further elaborated in paragraph 25 of the Human Rights Committee's General Comment No. 25.²⁶⁴
- The **Council of Europe's European Convention on Human Rights (ETS No. 5)**, in particular Articles 10 and 11, and Article 3 of the **Protocol No. 1** to the Convention (**ETS No. 9**).²⁶⁵
- The **United Nations Convention against Corruption**,²⁶⁶ in particular Articles 7, 17 and 19.
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**.²⁶⁷
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**.²⁶⁸

The misuse of administrative resources during electoral processes is covered by the following international standards and guidelines:

- The **Council of Europe's Venice Commission and the OSCE/ODIHR Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes**²⁶⁹ specify a series of measures and laws to be adopted in that regard.
- The **Council of Europe's Venice Commission report on the Misuse of Administrative Resources during Electoral Processes**.²⁷⁰
- The **Congress of the Council of Europe's Resolution on The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials** and its Explanatory Memorandum.²⁷¹
- The **Congress of the Council of Europe's Resolution on Preventing corruption and promoting public ethics at local and regional levels** and its Explanatory Memorandum.²⁷²
- The **Congress of the Council of Europe's Checklist** for compliance with international standards and good practices preventing misuse of administrative resources during electoral processes at local and regional level.²⁷³
- The **Congress of the Council of Europe's booklet on Administrative Resources and Fair Elections** provides practical examples and guidance.²⁷⁴

Domestic context

The misuse of administrative resources is one of the major problems reported with regards to Georgian elections over the past years both by local and international observers.²⁷⁵ When reporting such cases, local observers are highlighting the following category of violations:

- Misuse of enforcement administrative resources;
- Misuse of legislative administrative resources during electoral processes;
- Misuse of institutional administrative resources during electoral processes;
- Misuse of financial administrative resources during electoral processes;
- Pre-election changes to the municipal/state budgets to allow scaling up of social, healthcare and infrastructural projects.²⁷⁶

To overcome the mentioned challenges, there is a need for legislative changes and their proper implementation in the practice, which requires strong political will from the ruling party.

Legislation

Article 48 of the Election Code of Georgia prohibits use of administrative resources during the election campaign in support of or against any political party or candidate. It includes support such as use of administrative buildings, means of communication, information services, and other kinds of equipment

as well as transportation owned by public institutions. Article 49 of the same Code also includes prohibition of the use of budgetary funds, office, or official position, which covers the following circumstances:

- a) getting any career subordinate or otherwise dependent person involved in an activity that may support to presentation and/or election of a candidate;
- b) collecting signatures and conducting canvassing during business trips funded by state authorities or municipality bodies;
- c) getting engaged in campaigning during working hours and/or in the course of performing official duties.

In addition, from the 60th day before and including Election Day, it is prohibited to implement such projects/programs that have not been previously included in the State Budget. It is also prohibited to increase welfare benefits (pensions, hardship allowances, allowances, etc.) envisaged in the adopted state budget.²⁷⁷

According to local NGOs, which observe elections, Georgian legislation provides a narrow definition of the misuse of administrative resources during electoral processes, due to which a number of issues remains beyond the scope of regulation. For instance, according to their assessment, an administrative body may implement several activities that do not explicitly violate the law, however they might still provide goods to particular segments of the society in a way, to significantly influence their voting behaviour.²⁷⁸

Example of case law

The Office for Democratic Institutions and Human Rights (OSCE) noted several cases of misuse of administrative resources during the 2017 Local Elections. For instance, there was a confirmed case from Batumi, when Batumi City Court warned an official from the Ministry of Finance and Economy of the Autonomous Republic of Adjara for posting pictures of the Georgian Dream (GD, an incumbent political party) campaign event on the official Facebook page of the institution. Also, Tbilisi City Hall aired a public social advertisement showing achievements of the incumbent administration. Moreover, only the GD mayoral candidate was invited and promoted during several opening events by the City Hall.²⁷⁹

In addition, Transparency International Georgia (TI-G) raised the issue of mobilisation of people employed in budgetary organisations on a mass scale for election events of the ruling party. The organisation argued that even though such a mobilisation is not regarded as a direct violation of the law, such cases increase polarisation and politicisation of the civil sector.²⁸⁰ In general, TI-G submitted a total of 16 complaints to the Central and various District Election Commissions regarding the use of administrative resources. Out of which only two were granted. According to TI-G's report, complaints were mostly about the illegal campaign of civil servants during working hours and use of official positions by several municipal authorities.²⁸¹

Furthermore, the monitoring report of another local non-governmental organisation observing elections, International Society for Fair Elections and Democracy (ISFED), maintained that despite legal restrictions, a large number of municipalities made changes to their budgets to allow scaling up of social, healthcare and infrastructural projects during the latest local election.²⁸²

4.7. EXTORTION

Extortion is the use of coercion to obtain money, goods, services or some other advantage from an individual or institution. Beyond the damage it does to the victim, extortion reduces public trust in government and can discourage business growth and investment in the area.

International standards

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

- The **United Nations Convention against Corruption**²⁸³ is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²⁸⁴
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**²⁸⁵ aims to coordinate criminalisation of corrupt practices and improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**²⁸⁶ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**²⁸⁷ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

Extortion is one of the less widespread crimes in Georgia.²⁸⁸ According to the information published by the Ministry of Internal Affairs, 79 cases of alleged extortion were registered in 2020, out of which 20 (25%) were successfully investigated compared to 113 alleged cases registered in 2019, out of which 51 (45%) were successfully investigated.²⁸⁹ As the figures show, registered cases of extortion have reduced significantly in 2020 compared to the previous year. However, the proportion of investigated cases also went down.

Legislation

Article 181 of the Criminal Code of Georgia defines extortion as demanding another person to hand over property or title in property or the right to use property by threatening to use violence against the victim or the victim's close relative or to destroy or damage their property or to make public the information that may damage their reputation or otherwise damage substantially their rights. The crime is punishable with a fine or restriction of liberty from two to four years. The maximum sentence for extortion committed in aggravated circumstances is the restriction of liberty up to nine years.

Example of case law

As of present, there are no examples of relevant case law.

4.8. CLIENTELISM

Clientelism is the promise and acceptance of a personal benefit (e.g. gift, loan, reward, favour, job, etc.) in exchange for political support. It is often based on an unequal relationship between a patron (e.g. political leader) and client (e.g. voter). Clientelism results in decisions that reflect the special interests of a few, rather than the wider public interest, leading to unfair and unjust outcomes.

International standards

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

- The **United Nations Convention against Corruption**²⁹⁰ is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²⁹¹
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**²⁹² aims to coordinate 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)**²⁹³ defines common international rules for effective remedies for persons affected by corruption.
- The **Congress of the Council of Europe's Resolution and Recommendation on Fighting nepotism within local and regional authorities**²⁹⁴ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- The **European Union's Convention against Corruption Involving Officials**²⁹⁵ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

Clientelism is not a widely used term in Georgia. At the same time, law enforcement agencies don't pay adequate attention to the problem of clientelism. Despite a number of allegations made by the civil society regarding vote-buying during almost every election, no investigation has been carried out into the matter. No such crime has been registered by the Ministry of Internal Affairs in recent years (recent elections were held in 2018 and in 2020).

Legislation

According to Article 164¹ of the Criminal code of Georgia offering, promising, transferring or rendering money, securities (including a financial instrument), other property, property rights, services or any other advantage for electoral purposes, directly or indirectly, or accepting it with prior knowledge, or to make a fictitious, hypocritical or other transaction for the purpose of avoidance legal restrictions, if the value of such transaction does not exceed GEL 100 is punishable by a fine, if the value of such a transaction exceeds GEL 100 then it is punishable by up to three years in prison or a fine.

Example of case law

As of present, there are no examples of relevant case law.

4.9. PATRONAGE

Patronage is the use of an official position to appoint a person in a public office based on favouritism, often in exchange of political support. It can be closely linked to the concepts of clientelism, cronyism and nepotism. Patronage 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 violates the boundaries of legitimate political influence and the principles of merit, and leads to public money being misspent.

International standards

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

- The **United Nations Convention against Corruption**²⁹⁶ is the only legally binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²⁹⁷
- The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**²⁹⁸ aims to coordinate 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)**²⁹⁹ defines common international rules for effective remedies for persons affected by corruption.
- The **Congress of the Council of Europe’s Resolution and Recommendation on Fighting nepotism within local and regional authorities**³⁰⁰ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- The **European Union’s Convention against Corruption Involving Officials**³⁰¹ aims to fight corruption involving officials from the EU or its Member States.

Since the misuse of administrative resources during electoral processes is the most widespread manner to use patronage as a form of corruption, the following international standards are of relevance:

- The **Congress of the Council of Europe’s Resolution on the Misuse of Administrative Resources during Electoral Processes: The Role of Local and Regional Elected Representatives and Public Officials**³⁰² provides international standards and best practices to tackle the misuse of administrative resources.
- **Joint Guidelines of the Venice Commission and OSCE/ODHIR for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes**³⁰³ aim to assist decision makers in adopting laws and initiating concrete measures to prevent misuse of administrative resources.

Domestic context

After the entry into force of the new law on civil service in 2017, important improvements have been made within the civil service system in Georgia. The new law introduced qualitatively new approaches to practices aimed at establishing a unified public service in the country based on career advancement, merit, political neutrality and impartiality. To fight patronage in civil service, detailed rules on transparent recruitment of employees have been introduced by the law. To ensure impartial career, advancement the assessment system of employees has been implemented.

Legislation

Patronage as such is not mentioned in the national legislation, however, the law on civil service regulates appointment, career development, dismissal, incentives, and disciplinary responsibility of a civil servant. The law on conflict of interest and corruption in civil service provides some provisions on ethics and integrity. The Government decree approving the rules of ethics of civil servants introduces principles such as impartiality, professionalism, independence and accountability of a civil servant.

Example of case law

There are no registered cases of patronage in Georgia, however, claims were made by civil society organisations, mostly in recent years, which were related to cases of employment of public officials’ family members in public service which involved a high risk of nepotism.³⁰⁴ Majority of these cases were identified in the local self-government bodies, such as employment of public officials’ family members at municipal Non-Entrepreneurial (Non-Commercial) Legal Persons (N(N)LP), including those of the officials of Borjomi Municipality, Kutaisi City Council, as well as Ambrolauri Municipality.³⁰⁵

CONCLUSION

Local government plays a critical role in sustaining 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, attuned to people's needs and aspirations, improving people's lives and strengthening their trust and confidence in local institutions.

Local governments are taking important strides in improving the legal framework towards more open and inclusive decision-making. It is essential to involve citizens and other residents in decision-making from a very early stage in the policymaking process. Local governments should translate laws and policies on open government into practice and increase their efforts to ensure transparency, accountability, and the meaningful participation of citizens in policy- and decision-making. As well as being important qualities of local democracy, transparency and civic participation can 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 the protection of whistle-blowers and support for independent media and civil society, are equally critical to building open government, public ethics and accountability.

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, raise standards of public ethics and accountability, and promote transparency and citizen participation.

Endnotes

- ¹ Congress of Local and Regional Authorities of the Council of Europe (March 2021), *The 2021-2026 Priorities of the Congress of Local and Regional Authorities*, Strasbourg, available at <https://rm.coe.int/2021-2026-priorities-of-the-congress-of-local-and-regional-authorities/1680a1b0bd>
- ² United Nations UN (2015), *Sustainable Development Goals*, available at <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>
- ³ United Nations UN, General Assembly (October 2015), *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, United Nations, available at <https://undocs.org/A/RES/70/1>
- ⁴ For the purpose of this publication, the term “public officials” refers to elected representatives, public authorities and civil servants (either at local, regional or central government 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.
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- ¹⁴⁴ A deliberative body of a municipality mayor, composed of representatives from the private sector, civil society and municipal population. The council should be composed of at least 10 members and its composition shall be approved by the Mayor.
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