

## Public comments on the IRM Design Report 2018-2019: Georgia

### Comments by the Responsible Agencies of the Action Plan

**The Parliament of Georgia** with regard to the same section (3.1 Leadership) notes that the Parliament of Georgia has developed three Open Parliament action plans since 2015. Two of them have not been part of the OGP action plan of the executive branch. They had been developed and implemented in the framework of the “Declaration on Parliamentary Openness.” The third Open Parliament action plan for 2018-2019 is included in the [fourth OGP National Action Plan](#) (pg.12 of the IRM Report).

**The Parliament of Georgia** with regard to the Commitment 24 notes that the [Parliamentary training center](#) provides workshops, seminars, trainings for MPs and parliamentary staff members on implementation of SDGs. The obligation to operate the parliamentary training center is included in the [Strategy of the Parliament](#) on Assisting Implementation and Monitoring of SDGs (task 1.12) (pg. 76 of the report)

**The Parliament of Georgia** with regard to the Commitment 27, notes that Open Governance Permanent Parliamentary Council elaborated the [Concept of Citizen Engagement Center](#) (pg. 84 of the IRM Report). Parliamentary training center provides trainings for staff members of the Citizen Engagement Center in accordance with the Concept.<sup>1</sup>

**The Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia** with regard to the Commitment 14 notes that with the aim to ensure multi-stakeholder engagement in elaborating the housing policy, the Government adopted the [Decree №190](#) of 12 April, 2019 which establishes the **Government Commission** on the housing policy and **defines its composition**. According to the article 4 of the Commission Statute, working groups of the Commission consists of representatives of state institutions, local and international organizations, as well as invited specialists and experts **(Pg. 53 of the IRM Report)**.

**The National Agency of State Property** with regard to the Commitment 15 notes the following: the IRM report states that number of important information about the enterprises is not publicly available. In this regard the following shall be considered:

Within the framework of the action plan for the implementation of anti-corruption strategy of Georgia, a unified template has been developed to improve the reporting process of the enterprises created with the participation of the state and increase transparency, where the data of the enterprises are presented, including information on the name of the enterprise, the authorized capital, the field of activity, the annual financial statements, the operating expenses, the number of employees and a number of other issues. The materials are published on the agency's web site [nasp.gov.ge](http://nasp.gov.ge).

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<sup>1</sup> For additional information please visit links [1](#), [2](#) and [3](#).

It should be noted that the Law of Georgia on Accounting, Reporting, and Auditing, which aims to promote financial transparency and economic growth in accordance with the requirements of the relevant EU regulations governing the reporting and audit of entities, obliges enterprises to submit reports to the service (including consolidated reports), and the enterprises of I-II category the reports and audit conclusions certified by the auditor, the publication of which is carried out on the web site - [reportal.ge](http://reportal.ge).

As of January 1, 2014, there were 412 enterprises managed by the National Agency of State Property LEPL. Most of which were founded between the period of Georgia's independence and 2005. And from 2014 to September 20, 2019, only 6 enterprises were established by the state (In 2014 - 1 enterprise, in 2015 - 1 enterprise, in 2016 - enterprise, in 2017 - 1 enterprise, in 2018 - 2 enterprises, in 2019 none of the enterprises was established). Currently, one of the priority-strategic directions of the National Agency of State Property LEPL is to optimize-minimize dysfunctional enterprises, to lead the process perfectly and not to establish new enterprises. Therefore, at this stage, it is not advisable to develop enterprise establishment criteria. All the more so since the criterion of the establishment must be derived from a specific necessity that does not exist at this stage.

#### Optimization Statistics:

- 01.01.2014 - 412 enterprises;
- 01.01.2015 - 282 enterprises;
- 01.01.2016 - 186 enterprises;
- 01.01.2017 - 135 enterprises;
- 01.01.2018 - 123 enterprises;
- 01.01.2019 - 101 enterprises;
- 01.01.2020 - 94 enterprises.

At the same time, the decision to establish an enterprise by the state is made by the Government of Georgia, taking into account the challenges facing the country. And, based on the decree, the order of the LEPL - National Agency of State Property is issued.

High standards of corporate governance are introduced, for example: In "Sakaeronavigatsia" Ltd., "Georgian Airports Union" Ltd., "Marabda-Kartsakhi Railway" Ltd.

The enterprises have developed a code of ethics, allocated persons responsible for public information, created a website, which publishes information about the activities of the enterprise, developed forms for presenting financial information, set deadlines. Internal control groups have been set up in several enterprises.

The information base of the Agency on the enterprises created with the participation of the state has been completed.

Also, a reporting form and information submission statistics were developed. Once every two months, the persons responsible for the public information of the enterprises submit the following information electronically according to the developed form:

- On sale and lease;
- On ongoing and planned projects;
- On enforcement cases;
- On court cases;
- On real estate;
- On receivables;
- On credit debts;
- On labor contracts;
- On licenses and permits;
- Means of transportation;
- Cash on a bank account

LEPL - The National Agency of State Property has issued a “Guide to Enterprise Management with State Participation”. Where corporate governance issues such as Disposal of fixed assets, rules for conducting online auctions, rules for liquidation, rules for holding tenders for positions, etc. are provided. However, the approval of this manual depends on the adoption of the new Law on Entrepreneurs.

Corporate governance standards will be introduced in stages in all operating enterprises under the management of the Agency.

Currently, the Supervisory Board has been established in the following enterprises with 100% share participation in the management of the National Agency of State Property:

- Sakaeronavigatsia Ltd;
- Georgian Airports Union Ltd;
- Marabda-Kartsakhi Railway Ltd.

At the same time, the authority of the Supervisory Board and the management is determined by the Law of Georgia on Entrepreneurs and the charter of the society, and the decision on certain issues before the public is made by the Supervisory Board, which is drawn up in the form of a protocol and turn is sent to the LEPL - National Agency of State Property for approval.

Members of the Supervisory Board of Sakaeronavigatsia Ltd and Georgian Airports Union Ltd are appointed without pay and the Deputy Minister-Candidates is nominated by a specific ministry in accordance with the decree of the Government of Georgia. In Marabda-Kartsakhi Railway Ltd, the members of the Supervisory Board are not public servants and, accordingly, are assigned a specific salary.

In an enterprise where the state owns 100% of the shares and is managed by the LEPL - National Agency of State Property, the director is appointed by the order of the chairman of the agency or with the consent of the agency based on the decision of the supervisory board. And in case of less than 100% share participation, the decision on the appointment/dismissal of the director is made by the general meeting of the company or by the supervisory board with the consent of the meeting.

The rules for holding a contest on the position in more than 50% and 100% of the state-owned enterprises are provided in the draft “State-owned Enterprise Management Manual” project (**Pg. 55 of the IRM Report**)

***The State Security Service of Georgia*** notes the following regarding the Commitment 6 of the AP: Anti-corruption law-enforcement functions are distributed among respective law-enforcement agencies. The Anti-Corruption Agency of the SSSG, within its competence, is responsible to investigate malfeasance cases committed by a public servant or/and a person equated with a public servant, except for the officials, defined by Paragraph 1 of the Order N3 of the Prosecutor General on defining the investigative and investigative-territorial jurisdiction of criminal cases. According to the Order N3 of the Prosecutor General on defining the investigative and investigative-territorial jurisdiction of criminal cases, if an offence (including corruption-related crimes) is committed by the President, Member of Parliament, member of the Government, judge, Public defender, Auditor General, member of the Council of the National Bank of Georgia, extraordinary and plenipotentiary Ambassador or Envoy, employee of Prosecutor’s Office, policeman, employee of the State Security Service of Georgia, State Inspector, Deputy of the State Inspector, employees and investigators of the office of the State Inspector, high-ranking military officer or an officer of special high office or person of equivalent position, the case is investigated by the Prosecution Service of Georgia.

Considering the aforesaid main objectives of the Anti-Corruption Agency of the State Security Service of Georgia (SSSG) are to combat malfeasance, corruption crimes and investigate criminal cases within its competence and to carry out measures aimed at prevention, detection and suppression of corruption. The investigation statistics and results prove that during the period of being the part of the independent and highly accountable State Security Service of Georgia (SSSG) (since August 1, 2015) the activities of the Anti-Corruption Agency within the SSSG have been effective and efficient. Namely, during the period of August 1, 2015 to December 31, 2019, the Anti-Corruption Agency of the SSSG launched investigation in total on 300 criminal cases and as a result of operative-searching and investigative activities carried out by the Agency in total 403 persons<sup>2</sup> have been charged for malfeasance, official misconduct and other criminal cases investigated within the competence of the Anti-Corruption Agency of SSSG. Information on the activities of the Anti-Corruption Agency, including detentions are publicly available on SSSG website: <https://ssg.gov.ge/en/>.

Herewith it should be noted that Georgia has achieved remarkable progress in eliminating corruption in the public administration and Georgia’s efficient Anti-Corruption efforts have been positively reflected in different researches and assessments of various international organizations and financial institutions. According to the Corruption Perceptions Index 2018 - Transparency International, Georgia **raised up to 2 points** compared to 2017, and is **ranked 41<sup>st</sup> with 58 points**<sup>3</sup>, as well as it

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<sup>2</sup> Including public officials such as former Mayor and former Vice-Mayor of Zugdidi Municipality, former Governor of Samegrelo-Zemo Svaneti, Head of LEPL State Regulation Agency for Medical Activities under the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs; Chairman of Tskaltubo Municipality Assembly and Deputy Head of Vake District of Tbilisi City Hall; Tbilisi City Assembly majoritarian delegate of Krtsanisi region; First Deputy Mayor of Samtredia Municipality; Sagarejo Municipality Assembly delegate of village Ujarma and etc.

<sup>3</sup> See: <https://www.transparency.org/cpi2018>;

ranked first place in the Eastern Europe and Central Asia region<sup>4</sup>. Besides, on October 1, 2019 the World Bank published the research Worldwide Governance Indicators (WGI), where Georgia received 76.4% out of the 100-% scale in the direction of fight against corruption, **having improved its position by one point among Europe's top 20 countries, and ranked the 18<sup>th</sup> place**. This rating is historically the best result for Georgia. According to the rating, Georgia is ahead of **14 EU Member States - Spain, Italy, Poland, Malta, Czech Republic, Latvia, Lithuania, Slovakia, Croatia, Hungary, Romania, Cyprus, Greece and Bulgaria**. Georgia is the leader in the region in terms of controlling corruption, as for the **post-Soviet space, it only stands behind Estonia**. Advancing in the ratings is naturally an outcome of the complex activities carried out by the Government of Georgia, and it is noteworthy to mention on our behalf the efforts taken by the State Security Service and in particular by the Anti-Corruption Agency in the field of fight against corruption. On the other hand, the European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Georgia also **“acknowledges Georgia’s results in fighting low and mid-level corruption leading to a good regional ranking in perception indexes”<sup>5</sup>**

Furthermore, the legislation of Georgia envisages solid grounds for guaranteeing independence of the State Security Service of Georgia and at the same time provides mechanisms for high level of accountability, that ensure effectiveness of the activities of the Service *inter alia* in the direction of prevention and fight against corruption. In this regard, the Law of Georgia “On State Security Service of Georgia” envisages relevant mechanisms for ensuring the independence and political impartiality of the Service (*the Head of the Service shall neither be a political figure nor a member of the Government*) and guarantees the protection of the Service from any influence of the executive branch (*the Head of the Security Service is appointed and dismissed only by the Parliament, and the 6-year appointment term of the Head doesn’t coincide with either the Parliamentary and Presidential terms or the terms of the Government in office*).

In terms of democratic control, the legislation of Georgia clearly defines external and internal oversight mechanisms over the activities of the Service. The activities of the Service are subjected to Parliamentary (including the Group of Trust), Governmental, Court oversight, Prosecutorial as well as the State Audit Service control. Oversight of the State Inspector and the Ombudsmen and their access to the classified information should be also noted. Furthermore, the Law regulates internal control mechanism over the activities of the SSSG employees, conducted by the General Inspection. In the process of conducting investigation, the activities of the service are subject to the prosecutorial oversight. The law strictly defines that investigative and procedural activities restricting human rights and freedoms, recognized by the Constitution of Georgia, shall be carried out by the SSSG on the basis of a motivated decision of the court, as provided by the law.

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<sup>4</sup> See:

[https://www.transparency.org/news/feature/weak\\_checks\\_and\\_balances\\_threaten\\_anti\\_corruption\\_efforts\\_across\\_eastern\\_europe](https://www.transparency.org/news/feature/weak_checks_and_balances_threaten_anti_corruption_efforts_across_eastern_europe)

<sup>5</sup> See: European Parliament (2018), Report on the Implementation of the EU Association Agreement with Georgia, p. 9, [www.europarl.europa.eu/doceo/document/A-8-2018-0320\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/A-8-2018-0320_EN.pdf)

Taking into account the above-mentioned, it should be highlighted that the State Security Service of Georgia performs its activities in a manner to ensure equal protection of the state security and respect for fundamental human rights and freedoms. In performing its functions, the SSSG is guided by the main principles of legality, protection and respect of the fundamental human rights and freedoms, prohibition of discrimination and political neutrality.