

**Open Government Partnership  
1100 13th Street, NW, Suite 800  
Washington, DC 20005**

September 25, 2023

## **Feedback to the Government of Georgia's Formal Response to the Letter of Concern**

**Dear Steering Committee members,**

We, the Open Government Interagency Coordination Council of Georgia (and Forum) member civil society organizations (CSOs), would like to provide feedback to the Government of Georgia's [formal response](#) (the Response) to the [Letter of Concern](#) (the Letter) submitted on 13 April 2023 under the [Policy on Upholding the Values and Principles of OGP](#) (*Response Policy*).

To begin with, the Response Policy inquiry was triggered by a series of actions taken by the Government of Georgia, demonstrating flagrant disregard for the values and principles expressed in the [Open Government Declaration](#), and the [Articles of Governance](#). In particular, **the Letter of Concern expressed deep concerns over the Government of Georgia's utter and continuous incongruences with regard to the OGP's fundamental documents by reducing space for civil society organizations, human rights activists, and critical media, infringing on fundamental freedoms, notably freedom of association and expression, and the right to privacy, restricting access to information, undermining the independence of the judiciary. Furthermore, the Letter also addressed the stalled co-creation process.**

**We note with regret that the Government digressed from the primary concerns expressed in the Letter. The government's response is a feeble attempt to portray the stalled Action Plan development process as the main concern of the Letter, although knowing that in line with the [OGP Participation and Co-creation Standards](#), this particular issue is subject to the [Procedural Review](#) mechanism. Following the established guidelines, a Response Policy inquiry may only be triggered when concerns cannot be addressed by the Procedural Review mechanism.**

**We would like to firmly reiterate that civil society organizations' primary concern stems directly from the actions of the Government of Georgia, which contradict democratic principles, undermine the Open Government Declaration, and certainly represent a reputational risk to OGP.**

In particular, we urge the OGP Steering Committee to address the following breach of OGP values in Georgia: **shrinking the space for non-governmental organizations and media, hindering their work to voice critiques; restricting access to information for citizens**

**and civil society; curtailing essential liberties, including freedom of expression, peaceful assembly, association, and the right to privacy; suppressing media freedom; eroding the independence of the judiciary; neglecting to address instances of high-level corruption.**

**To put it mildly, even with an OGP Action Plan in place, the Government's actions would call into question the authenticity of Georgia's OGP participation, given their disregard for the partnership's fundamental values.**

**We strongly believe that the pro-forma OGP process should not be endorsed at national or international levels, and the government should rigorously embrace and uphold values and principles "enshrined in the Universal Declaration of Human Rights, the UN Convention against Corruption, and other applicable international instruments related to human rights and good governance."**

The signatory civil society organizations remain prepared to engage in further communication on this matter.

Sincerely,

**The Open Government Interagency Coordination Council of Georgia (and Forum) member civil society organizations:**

**Civil Society Institute  
Economic Policy Research Center  
Georgian Democracy Initiative  
Georgian Young Lawyers' Association  
Green Alternative  
Institute for Development of Freedom of Information  
Partnership for Road Safety  
Social Justice Center  
Transparency International Georgia**

## ANNEX 1

### I. OGP Co-creation Process

As for the new OGP Action Plan development process, we would like to provide additional information on the factual incongruities and disparities presented in the Government Response:

- Georgia's **last OGP Action Plan expired in December 2019**.
- The Government attempted to restore the process formally twice: **first in February 2020**, when it requested the submission of commitment proposals from CSOs for the new action plan, and **then in July 2021**, when it requested the renewal of the submitted proposals. **The process did not commence in July 2021, as indicated in the response letter**. In both cases, CSOs provided a package of commitments within the specified deadlines.
- Following this submission, OGP Georgia's Secretariat organized a **Forum meeting (split into two sessions)** in January-February 2022.
- After nearly a year of persistent requests for government positions, **on December 21, 2022**, CSOs finally received the government's response on the inclusion of suggested commitments. Regrettably, after a careful and comprehensive assessment of the response, it was evident that ***the Government failed to demonstrate even a minimum level of ambition, as none of the star commitments presented by the civil society were shared by the Government.***
- **Although the government argues that *the majority of the CSO initiatives were included*, they did not fully agree to any of the transformational commitments (Star Commitments); only 1 of the suggested Star Commitments was partially included.** Interestingly, the government committed itself to implementing this initiative back in the 2018-2019 plan (Commitment 12: Increasing transparency of the public grant funding system). However, after almost five years, the government has not made progress in this direction.
- **The accuracy of status updates regarding the incorporation of suggestions is often inconsistent with reality.** For instance, certain commitments marked as "fully included" may, in truth, only be "partially included." **Additionally, in some instances, government alterations have fundamentally changed the original goal of these commitments.** Hence, describing 33 commitments as "partially agreed" is simply inaccurate (See the Annex 2 of this letter below).
- Following this event, we sent a relevant letter to the government on January 20 (see Annex 2 of the government's response letter) asking them to reconsider once again their positions at least in relation to the following 5 "Star Commitments:" creation of an Independent Anti-corruption Agency equipped with investigative functions, the adoption of a stand-alone Law on Freedom of Information, joining the Extractive Industries Transparency Initiative (EITI), increasing the transparency of the system

of issuing government grants, ensuring transparency and public participation in the disposal of natural resources.

- **On February 14, 2023**, the Russian-style Foreign Agents' draft Law "[On Transparency of Foreign Influence](#)" was initiated by the members of the [parliamentary Majority](#).
- **On February 22, 2023**, the same group of MPs registered "[On Registration of the Foreign Agents](#)", an even more severe version than the first draft, as it applied to natural persons and legal entities and envisaged criminal liability. In particular, non-fulfillment or improper fulfillment of the obligations stipulated in the law would be punishable by a fine or imprisonment for a term of up to 5 years.
- **Ironically, on the very same day, February 22, 2023**, CSOs received an invitation to OGP Georgia's first Council meeting, with the draft agenda, requesting suggestions on discussion items.
- **Ironically, once again, On March 13, 2023**, CSOs received an email from the Administration of the Government asking about their position on conducting the first meeting of the OGP Georgia's Council. This email was sent in under 24 hours after a lengthy [televised interview](#) of Prime Minister Garibashvili **on March 12, 2023**, at Imedi TV Garibashvili [[follow the link for an extended interview with subtitles](#)], during which, he laid out plans for further crack down on those who went out to protest against the draft law. **PM Garibashvili personally attacked Georgian civil society, including OGP Council/Forum member CSOs, calling them *inter-alia* non-transparent, destructive, and provocative.** Moreover, he has also made bizarre allegations that the objective of [the petition](#) signatory CSOs, along with political groups, was the destabilization of the country by opening the second front and "helping Ukraine."
- In view of all the above, particularly taking into account the PM's personal attacks on OGP Council member CSOs, his involvement in a large-scale campaign aimed at suppressing the activities of the non-governmental sector and critical media, labeling and damaging their reputation – aiming at limiting civic space, we found it unacceptable to proceed with the OGP Council meeting.
- **Regrettably, the government's approach to the OGP process at the national level seems to prioritize procedural formalities over meaningful action, resulting in an unwillingness to implement the much-needed, outcome-driven, and ambitious reforms.**

## II. International Indices Assessment

The government of Georgia often relies on international indices and assessments as a means to downplay issues within the country. In some instances, it has been observed that they may

selectively interpret international rankings in a manner that compels the respective author organizations to issue follow-up statements.

As anticipated, the Governmental response included a number of international assessments/rankings to exemplify the country's progress and advancement.

Regrettably, based on the government's own referenced indices, it's evident that there has been a noticeable decline in good governance indicators.

- **Corruption Perception Index 2022**

Although Georgia reaches a score of 56 out of 100 on the [CPI 2022](#) and leads the region with 56 points, it is mainly due to its efforts to reduce low-level bribery, but the progress has slowed since 2012.

According to the CPI [Analysis](#), **“the nature, scope and increasing number of alleged high-level corruption cases point to an alarming conclusion that high-level corruption in Georgia is taking the form of kleptocracy, where officials systematically use political power to appropriate the country’s wealth and undermine all critical voices, including political opposition, media, and civil society... Disappointingly, in a country once held up as an anti-corruption champion in the region, the current government is effectively killing any momentum to fight this problem. The governing Georgian Dream party – which is widely believed to be controlled by Georgia’s richest man and former Prime Minister, Bidzina Ivanishvili – has captured key state institutions, the judiciary, and law enforcement, meaning abuses of power at the highest levels go largely unpunished.”**

**“Instead of being wrongly complacent about the country’s performance on the CPI, the Georgian government must double down on its efforts to fight against corruption, while creating an enabling environment for civil society to hold power to account,”** – reads the statement by the Secretariat of the Transparency International.

- **Open Budget Survey**

Despite the fact that Georgia ranked 1st among 120 countries in the world in the [Open Budget Survey 2021](#), the [statement](#) made by the secretariat explains that **“Georgia’s score means that the government released timely and comprehensive information in their key budget documents. However, this does not mean that Georgia is fully transparent, accountable, and inclusive with its public outside the budget process. Indeed, independent assessments have found worrying indications of increasing high-level corruption.** As the government’s disproportionate use of police force against the protesters underscores, there is increasingly less space in Georgia for peaceful assembly and freedom of expression.”

- **World Justice Project, Rule of Law Index 2022**

In the 2022 Global Rule of Law Index, Georgia received a score of 0.61 (maximum is 1), marking a decrease of 0.01 points compared to the previous year.

Findings from [IDFI's analysis](#) of the Index:

- **Georgia is placed among the countries where the score has decreased after 2015;**
- Among the criteria assessed by the WJP Rule of Law Index, Georgia received its highest score of 0.79 points in the Order and Security component, **while registering its lowest score of 0.51 points in the Criminal Justice category, marking a decrease from the previous year;**
- **Georgia achieved the highest scores in all eight evaluated criteria in 2015-2016, but subsequently witnessed a decline in performance across all components.**

### **III. Implementation of EU 12 Recommendations**

Last but not least, the Government also provided a [Progress Report on the Implementation of EU 12 Priorities](#), defined by the European Commission as a prerequisite for granting Georgia the EU candidate status.

We believe that the assessment of the EU 12 priority implementation is beyond the framework of the OGP's Response Policy mechanism, therefore we will not provide our feedback on this particular subject. However, it should be noted that on 22 June 2023, following the informal General Affairs Council meeting, the Neighbourhood and Enlargement Commissioner Olivér Várhelyi [stated](#) **that Georgia has fully completed three out of 12 recommendations, and "in seven other areas, Georgia has achieved some progress."**

## ANNEX 2

### The Inclusion Statuses of CSO-suggested Initiatives

The government's response letter claims that they ***“fully or partially agreed to 33 initiatives.”***

This document includes all suggested commitments and defines their inclusion status<sup>1</sup> based on the response received from the OGP Georgia's Secretariat on December 21, 2022.

The accuracy of *inclusion status* regarding the incorporation of CSO suggestions in the draft Action Plan sometimes contradicts reality:

According to Our Assessment:			
★ Commitments (Fully Included)	Fully Included	Partially Included	Rejected
<b>0</b>	<b>6</b>	<b>8</b>	<b>18</b>

CSOs have not received a clear government decision with regard to certain commitments. Moreover, some commitments were either already implemented and were not relevant, or suggested to be part of alternative government policy documents. **Moreover, in some instances, government alterations have fundamentally changed the original goal of the commitment.**

N	Initiated Commitment	GOV defined status	CSO assessed status	Comment
1	<b>Independent Anti-corruption Agency (with investigative function) ☆</b>	The initiative is being discussed within the framework of the EU recommendations	<b>Rejected</b>	The government claims that this initiative is being discussed within the Parliamentary working group on the EU Commission recommendations for the EU candidate status. The truth is that the Parliamentary working group has already finished its work and the law adopted as a result of its work only partially addresses, in fact, excludes the main concerns of the EU Commission recommendations. Therefore, this reform remains very relevant.
2	<b>Accession to the Extractive Industries Transparency Initiative (EITI) standard ☆</b>	<b>Partially included</b>	<b>Rejected</b>	CSO initiative envisaged adherence to the EITI Standards. The Government offers that the new OGP Action Plan will only include the development of a <i>„Study of the capabilities of state institutions“</i> and based on that an Action Plan that defines the ways to address problems identified in

<sup>1</sup> Please note that the status updates for the initiatives are as of January 2023.

				the study and the activities/measures needed to adhere to the EITI standards. In short, the government does not take responsibility to become an EITI country.
3	<b>Increasing transparency of the public grant funding system ☆</b>	<b>Fully Included</b>	<b>Partially included</b>	The CSO commitment consisted of two parts. The government accepted only one part but claimed that it had fully accepted the commitment. Interestingly, this exact commitment was part of the previous 2018-2019 National Action Plan of Georgia, but its implementation was completed neither within the AP timeframes nor in the following three years.
4	<b>Ensuring transparency and public participation in the disposal of natural resources ☆</b>	<b>Partially included</b>	<b>Rejected</b>	The government rejects this initiative and suggests modification but in reality, the modified version does not tackle the problem that was addressed by the initial version of the initiative.
5	<b>Adoption of the Law of Georgia On Freedom of Information ☆</b>	<b>Rejected</b>	<b>Rejected</b>	
6	<b>Establishment of a Beneficial Ownership Registry ☆</b>	<b>Rejected</b>	<b>Rejected</b>	
7	<b>Reform of openness of state archives (II wave)</b>	<b>Rejected</b>	<b>Rejected</b>	
8	<b>Enforcement of special rules for the protection of Whistleblowers in law enforcement agencies (LEA)</b>	<b>Partially included</b>	<b>Partially included</b>	CSO initiative envisaged the development and enforcement of the Special Rules on Whistleblower Protection in the Ministry of Internal Affairs (MIA) and Ministry of Defence (MoD). The Law of Georgia on Corruption (former Col law) has required the MIA and MoD to enforce this rule since 2015. The MoD claims that it is in the process of development and will be completed soon (this is the “Partial inclusion” of the initiative), while MIA rejects it.
9	<b>Improvement of the existing standard of proactive publication of information (Second Wave of Reform)</b>	<b>Included</b>	<b>Included</b>	
10	<b>Proactive publication of the list of databases</b>	<b>Included</b>	<b>Included</b>	



	registered in the unified state register			
11	Proactive disclosure of the information on Procurements from Reserve Funds	Included	Included	
12	Disclosure of the shareholders of the Joint-stock Companies (JSC)	Included	Included (!)	Within the framework of this Commitment, the government requests the disclosure of the Non-entrepreneurial (non-commercial) Legal Entity member lists, which, in our assessment, goes beyond the objective of the initiated commitment and has nothing to do with the problem to be addressed.
13	Ensuring inclusion of persons with psychosocial needs in public life	Included	Included	
14	Collect and proactively publish detailed statistics on eviction issues enforced by the National Bureau of Enforcement (NBE)	Partially included	Partially included	
15	Proactive disclosure of information on applications registered and funds granted within the framework of state referral services and other similar programs	Partially included	Partially included	
16	Proactive disclosure of the information on State Supervision of Mineral Licenses	Partially included	Partially included	
17	Proactive disclosure of the information on State Inspections of Environmental Supervision	Partially included	Partially included	
18	Openness of meetings of the Government of Georgia (Cabinet Meetings)	Partially included	Rejected	Alterations made by the government have completely changed the original objective of the commitment.

19	<b>Increasing access to information on the financing of cultural events</b>	<b>Fully Included</b>	<b>Rejected</b>	The initiative is Rejected and NOT fully included, as the government claims. The modified version does not reflect the key component of the CSO-initiated version. Namely, the CSO initiative envisaged the creation of a unified web portal for cultural events financed from the state budget (tender registry). The government offers to take a one-off action and publish only 2023-2024 data. This action does not need to be included in the OGP AP (or anywhere) as this information can be obtained under FOI.
20	<b>Increase the inclusion and participation of minorities in political life, creation of consultative mechanisms at the levels of the Parliament and Government</b>	<b>Partially included</b>	<b>Partially Included</b>	
21	<b>Refinement of the Environmental Impact Assessment (EIA) procedure</b>	<b>Partially included</b>	<b>Partially Included</b>	
22	<b>Develop a unified methodology for collecting and processing statistical data on homelessness and housing policy</b>	<b>Partially included</b>	<b>Partially Included</b> (The Government redirects these initiatives to another process (outside the OGP process))	The government-suggested modified version of these initiatives redirects this work outside the OGP process. Suggests development of the legislative framework within the Social Security Reform (outside the OGP Process).
23	<b>Identify challenges of Housing Policy and develop a relevant Strategy and Action plan</b>			To our assessment, improvement of the relevant legal framework is necessary and a positive step to be taken, however, based on the complexity of the issue and the government's performance, we expect that this process will be significantly prolonged. The process of development/improvement of the legal framework cannot be an alternative to the policy document implementation, especially within the next 2-3 years.
24	<b>Creating an electronic system to fulfill the obligations stipulated</b>	<b>The Government redirects this initiative to other policy document</b>		The government has not implemented this 2018-2019 Action Plan commitment for almost 5 years now. As the government and responsible Agency

	<b>by the Environmental Assessment Code</b>	<b>(outside the OGP process)</b>		claims, it is part of a new National Program of Environmental Protection Actions, thus rejected to be a part of the OGP. In our assessment, this particular commitment should be included in the OGP process, so that the CSOs (OGP Council) have oversight on its implementation. Moreover, the government might implement a modified version that will not include the core principles of this version.
25	<b>Proactive publication of the information on construction permits for Objects of Special Importance</b>	<b>Fully Included</b>	<b>Included only if donor funds are secured</b>	The government refuses to implement this commitment under the state budget.
26	<b>Citizen engagement in the public policy development process</b>	<b>The Government redirects this initiative to other policy document (outside the OGP process)</b>		Will be a part of the Public Administration Reform (PAR) policy documents. Still, as we understand from the GOV response, the suggested version will not be included.
27	<b>Publication of Asset declarations of public officials in open data format</b>	<b>Already Implemented</b>		
28	<b>Proactive publication of inspections carried out by the LEPL Labor Inspection</b>	<b>Rejected</b>	<b>Rejected</b>	
29	<b>Proactive publication of the Supreme Court Plenum decisions on the website</b>	<b>Rejected</b>	<b>Rejected</b>	
30	<b>Ensuring openness of interviews/full publication of court decisions</b>	<b>Rejected</b>	<b>Rejected</b>	
31	<b>Development of Community-oriented Policing in regions inhabited by ethnic and religious minorities</b>	<b>Rejected</b>	<b>Rejected</b>	
32	<b>Publication of the drafts of Government acts and their explanatory notes</b>	<b>Rejected</b>	<b>Rejected</b>	

33	Electronic innovations for greater transparency and efficiency of public procurements	Rejected	Rejected	
34	Increasing the transparency of the state procurement system	Rejected	Rejected	
35	Providing direct technical access to the government's/public information databases	Rejected	Rejected	
36	Improving the transparency of state funding of sports federations	Rejected	Rejected	
37	Increasing access to public information/services and minority engagement in local political/social processes in regions inhabited by ethnic minorities	According to the government, this has been already implemented		
38	Creating standards for evictions and resettlement caused by development projects	N/A		The final decision on the inclusion is not provided
39	Ensuring transparency of utilization of hydro and other energy resources	Partially included	Rejected	The altered version does not address the original objective/problem of the CSO-suggested commitment.
40	Ensuring transparency in the mining sector	N/A		The final decision on the inclusion is not provided