

T
B
I
L
I
S
I
2
0
2
3



EU COMMISSION'S FOURTH RECOMMENDATION (ANTI-CORRUPTION POLICY) PERFORMANCE REPORT

PREAMBLE

Integration into the European Union and obtaining candidate status is one of the major national action plans of Georgia.¹ On March 3, 2022, Georgia submitted the membership application to the European Union. On June 17, 2022, the EU Commission has issued its report on Georgia's application². As per the Commission's report, Georgia was granted the membership perspective, however, the candidate status was not granted, and the Commission issued 12 recommendations as a precondition for Georgia's candidate status.

Commission's recommendation #4 is about the creation of the anti-corruption agency and strengthening of anti-corruption policy. According to the recommendation³, "Georgia shall strengthen the independence of the anti-corruption agency and combine all key anti-corruption functions under the agency, specifically with the capacity to investigate high-level corruption. The newly established special investigation service and the personal data protection office shall be equipped with relevant resources to ensure its institutional independence." The initial deadline for the performance of this recommendation was set at 6 months; however, it was later extended until autumn 2023 to give additional time for the performance of recommendations.⁴

Georgia began implementing recommendations by passing a number of legislative amendments. This document reviews and evaluates Georgia's present anti-corruption policy, as well as the Georgian government's efforts to implement the Commission's anti-corruption recommendations. The document will also analyze the initiatives and actions of civil society and political opposition in relation to the fulfillment of the Commission's 4th recommendation.

ANTI-CORRUPTION POLICY AND THE NECESSITY FOR REFORMS

The Commission's recommendation on the strengthening of the anti-corruption policy and institutional independence did not come as a surprise. Georgia has not passed any reforms in the anti-corruption field for the last couple of years. The government of Georgia adopted the anti-corruption strategy and action plan in 2019. The anti-corruption secretariat is not

¹ Report on the Georgia's EU integration action plan for six months (2022);

<https://bit.ly/3Wfn8uX>

² Opinion on the EU membership application by Georgia, European Commission 17 June 2022;

<http://bit.ly/3JoTTCL>

³ Ibid;

⁴ The European Commission extends the deadline for implementing the 12 recommendations- What does it mean? Radio Freedom, 13 July 2022;

<http://bit.ly/3kPbBFc>

fully functional yet and the inter-agency anti-corruption council has not convened since 2019⁵.

High-level corruption still remains a significant challenge in Georgia⁶. It has replaced petty corruption and due to that, the overall situation with regard to corruption in the country worsened.⁷ The same is confirmed by the decrease in the country's ranking in the corruption perception index (CPI) of Transparency International⁸. Georgia suffers significant stagnation in that regard⁹. Pursuant to the opinion of Transparency International, the excessive influence of Georgian Dream's founder – Bidzina Ivanishvili on the public institutions has strengthened the corruption in the country and has grown into state capture¹⁰.

Numerous prominent international organizations, notably OECD reports, have underscored the importance of anti-corruption system reform, as has the European Parliament¹¹. As per the report of OECD/ACN on the anti-corruption action plan of 2019, it is recommended the anti-corruption unit shall be separated from the state security service and the anti-corruption investigation unit of the general prosecution service shall be strengthened.

On December 14, 2022, the European Parliament adopted the resolution on the performance of the Georgian-EU association treaty. The resolution highlighted the necessity of the implementation of 12 recommendations. The European Parliament has called upon the Government of Georgia to strengthen the independence of the anti-corruption agency in order to ensure the due investigation and policing of high-level corruption¹².

The fight against corruption is one of the priorities of the Georgian-EU association agenda for 2021-2027 years¹³. The short-term priorities have to be implemented within 3-4 years, whereas the long-term priorities have to be performed within 7 year period.

⁵ Georgian government stalled Anti-corruption policy, Transparency International-Georgia, 24 December 2021;

<http://bit.ly/40fuPnU>

⁶ European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Georgia; European Parliament;

<http://bit.ly/3XNcigY>

⁷ Anti-corruption environment in Georgia and Recommendations for the European Union, Transparency International-Georgia 8 September 2021;

<http://bit.ly/3RcPXH7>

⁸ Corruption Perception Index, Transparency International, 2021;

<http://bit.ly/3jl75Oh>

⁹ Georgia's Anti-Corruption Reforms Stall Amid Political Crisis Amid Political Crisis and Allegations of State Capture, Transparency International, 2021;

<http://bit.ly/3wBRQU7>

¹⁰ CPI 2021 for Eastern Europe & Central Asia: Democratic Hopes in the Shadow of Growing Authoritarianism, Transparency International, 2022;

<http://bit.ly/3XNOCsG>

¹¹ Progress update report of Anti-corruption action plan 2019, OECD;

<https://bit.ly/3R0Kmt4>

¹² Report on the implementation of the EU Association Agreement with Georgia, European Parliament, 2022;

<http://bit.ly/3Y8n8Qc>

¹³ EU-Georgia Association Agenda 2021-2027;

COMMISSION'S 4TH RECOMMENDATION: FORMATION OF THE WORKING GROUP

The ruling party has taken the initiative on the implementation of the Commission's 12 recommendations. Following the meeting of the Georgian Dream's political council on July 1st, 2022, one of the leaders of the ruling party – Irakli Kobakhidze presented¹⁴ the action plan for the implementation of recommendations.¹⁵

As per the Georgian Dream's action plan¹⁶, the working group for the institutional development of the anti-corruption activities, special investigation service, and personal data protection service was created within the legal issues committee of the Parliament of Georgia¹⁷."

The action plan was negatively assessed by the President of Georgia. Salome Zourabichvili has stated her opinion on the ruling party's action plan in her social media post published on July 3rd, 2022¹⁸.

Various representatives of the opposition parties have also negatively reacted to the action plan¹⁹. The chairman of the political party "Lelo for Georgia" – Mamuka Khazaradze publicly expressed his distrust towards the ruling party's action plan²⁰.

Three parliamentary opposition parties – "Lelo for Georgia", "Strategy Aghmashenebeli" and "United National Movement" did not participate in the working group formed within the legal issues committee²¹. The first meeting of the working group was held on August 9, 2022. The first meeting was also not attended by Khatuna Samnidze, the chairperson of the parliamentary political group – "Reform group"²².

Nevertheless, officials of the "Lelo for Georgia" party have not officially refused to participate in the working group's activity. One of the party members – Ana Natsvlishvili stated that Lelo for Georgia has prepared a specific set of draft legislation that is necessary for the implementation of the Commission's 12 recommendations²³.

¹⁴ The statement of Irakli Kobakhidze; <https://bit.ly/3Y31ECq>

¹⁵ Georgian dream unveils plan to meet recommendations, EU Civil Georgia, 1 July 2022; <http://bit.ly/3XSYlyc>

¹⁶ Ibid;

¹⁷ Legal issues committee establishing five working groups on Ec's recommendations, The Parliament of Georgia, 4 August 2022; <https://bit.ly/3H9f74Q>

¹⁸ Letter of the president of Georgia, Salome Zurabishvili on social network, 3 July, 2022;

<https://bit.ly/3JpwRvE>

¹⁹ Part of opposition starts parallel working process in EU recommendations, Civil Georgia, 25 July 2022; <http://bit.ly/3HkjF8D>

²⁰ The statement of the chairmen of the political party "Lelo for Georgia" on social network; 1 July 2022; <https://bit.ly/3Y4ODbt>

²¹ 12 steps to candidacy-how Georgia implements EU recommendations, Radio Freedom, 17 August 2022; <http://bit.ly/3ImNYnM>

²² Working group meeting, Georgian public broadcaster, 3 August 2022; <http://bit.ly/3lgi9u8>

²³ TV interview of Ana Natsvlishvili, 7 September 2022; <https://bit.ly/3YF3bip>

The working group has conducted 3 meetings in total. Apart from the members of Parliament, the representatives of the Government, the President's administration and the civil society organizations (Institute for the Development of the Freedom of Information - IDFI) participated in the meetings²⁴.

The actions taken by the working group were evaluated by the opposition as an attempt of the ruling party to intentionally delay the process, as the implementation of the Commission's recommendation did not necessitate months-long procedures and meetings. As per the statement of opposition parties, they had prepared the draft legislation²⁵, which just needed to be adopted during the extraordinary sessions of the Parliament²⁶.

The political opposition has created an alternative working group. The alternative working group consisted of the members from "United National Movement", "Lelo for Georgia", "Strategy Aghmashenebeli", political party "For Georgia", various independent members of the Parliament (Tamar Charkviani, Tamar Kordzaia, Shalva Shavgulidze, Aramaz Akhvlediani) and numerous representatives of civil society sector²⁷. On September 21, 2022, opposition parties and independent MPs presented the "basic package" for implementing the Commission's recommendations in collaboration with civil society organizations.

On 21 September 2022, opposition parties and independent MPs in cooperation with civil society organizations presented the "basic package" for the implementation of the Commission's recommendations.²⁸ The "basic package" included all required legislative changes for the implementation of 12 recommendations²⁹.

LEGISLATIVE AMENDMENTS FOR THE IMPLEMENTATION OF 4TH RECOMMENDATION

1. ANTI-CORRUPTION DRAFT LAW

The first draft law for the strengthening of the anti-corruption agency was initiated by the ruling party on October 26, 2022. The first hearing was held on November 2, 2022³⁰. The draft law initiated by the ruling party was adopted by the Parliament on the first hearing

²⁴ Minutes of legal issues committee working groups, 9 August, 12 August, 26 October 2022 ; <https://bit.ly/3RQCXY3>

²⁵"Draft law, On the National Anti-Corruption Agency" 25 January 2022; <https://bit.ly/3RdAMxs>

²⁶ The statement of opposition regarding the working plan prepared by Georgian Dream, Net Gazeti, 4 July 2022; <http://bit.ly/3HgWLPw>

²⁷ Part of opposition starts parallel working process in EU recommendations, Civil Georgia, 25 July 2022; <https://bit.ly/3HkjF8D>

²⁸ Part of opposition presents plan to meet EU recommendations, Civil Georgia, Civil Georgia, 22 July 2022; <http://bit.ly/3HFVnqY>

²⁹ Package of proposals for Eu recommendations prepared by Opposition 21 July 2022; <https://bit.ly/3XMgRYS>

³⁰ Draft law No 07-3/259/10; The parliament of Georgia, 26 October 2022; <https://bit.ly/3RhaV7M>

on November 30, 2022.³¹ 84 MPs voted in favor of³². The draft law was adopted by the full majority of votes on its second³³ and third hearings³⁴.

As per the new law³⁵, the new anti-corruption agency – Legal Entity of Public Law – “Anti-Corruption Bureau” has been created. **The main function of the bureau is to support the fight against corruption, elaborate the general anti-corruption policies and action plans as well as ensure their implementation.** Pursuant to the law, one of the competencies of the civil service bureau, namely the power to check the accuracy of the asset declarations submitted by public officials, was transferred to the anti-corruption bureau (article 20¹⁵ (paragraph - F). The bureau has also combined the competence of the state audit service in terms of the monitoring of the political parties. In particular, the bureau is entitled to conduct financial audits of political parties (to become effective from September 1, 2023).

During the hearings of the draft law, several MPs raised the issue of the appointment rule of the chairman of the bureau³⁶. The chairperson of the bureau is appointed by the Prime Minister of the country. Candidates for the role of the chairperson are chosen through an open selection process. The chairperson is appointed for a six-year term. **Notably, the bureau does not have an investigation power.**

As per the statement of Georgian Dream’s representative, MP Anri Okhanashvili, the reason for this was that the Commission’s recommendation did not imply equipping the bureau with investigative powers.³⁷

The new law also considers the creation of the anti-corruption council, which shall be in charge of the formation of uniform policies for the fight against corruption. The council will not be independent in its actions since its members will be determined by the Government. Apart from that, the administrative matters of the council’s actions will be organized and managed by the Government’s administration.

2. THE SECOND PACKAGE OF DRAFT LEGISLATION

The legislative changes also included amendments to the law on the special investigation service. The second part of the Commission’s 4th recommendation concerned strengthening the institutional independence of the special investigation service and the personal data protection service.

³¹ Draft law „on conflict of interest and corruption in public service”, The parliament of Georgia, 26 October 2022; <https://bit.ly/3Js0GLV>

³² Draft law No 07-3/259/10, voting results, The parliament of Georgia, 2 November 2022; 2022; <https://bit.ly/3HGETii>

³³ Draft law No 07-3/259/10, voting results, The parliament of Georgia, 16 November 2022; <https://bit.ly/3HELVE5>

³⁴ Draft law No 07-3/259/10, voting results, The parliament of Georgia, 30 November 2022; <https://bit.ly/40cCtz9>

³⁵ The new law on „conflict of interest and corruption in public service”, The parliament of Georgia, 30 November 2022; <http://bit.ly/3Heyf1f>

³⁶ Draft law No 07-3/259/10, audio record of the hearing of the draft law, The parliament of Georgia 15 November 2022; <https://bit.ly/3RjHAd0>

³⁷ Ibid;

On November 30, 2022, the Parliament adopted the changes in the law on special investigation services.³⁸ As per the amendments, the mandate of the special investigation service was extended to include the power to investigate all cases related to the violation of human rights determined by the European Court of Human Rights³⁹. Before the amendments, this power was part of the prosecution service. Apart from that, the new law has increased the number of crimes that now fall under the authority of the special investigation service⁴⁰.

The new law also addressed the personal data protection service⁴¹. Specifically, according to the law, the social protection guarantees of the employees of the personal data protection service were increased.⁴²

As per the law, each employee will be entitled to receive the grade allowing the employee to increase their salary and compensation along with the attainment of higher grades. The law changed nothing in relation to the rules of the appointment of the chairpersons of the special investigation service⁴³ and personal data protection service⁴⁴.

OPINIONS OF THE OPPOSITION AND THE CIVIL SOCIETY SECTOR

Civil Society organizations quickly engaged in the process following the publication of the Commission's recommendations. They closely monitored the process and issued their instructions to the ruling party for the performance of recommendations. The very first instruction of the sector was to elaborate on exact deadlines and criteria to measure the performance of the recommendations by the ruling party⁴⁵.

On July 27, 2022, the civil society organizations have presented their proposed action plan.⁴⁶ The plan was signed by 23 organizations, and it included specific actions and measures that were to be taken by the Government and the ruling party. The civil society organizations organized public discussions of their proposed action plan. Various diplomats attended the discussions. However, none of the representatives from the Government or the ruling party took part in the discussions.

³⁸ The draft law on special investigation service adopted with the III reading, The parliament of Georgia 30 November 2022; <https://bit.ly/3DrVILL>

³⁹ Draft law 07-3/258/10; The parliament of Georgia 19 October 2022; <https://bit.ly/3kL0kpi>

⁴⁰ The new law on "special investigation service"; 30 November 2022; <http://bit.ly/3jj7kJF>

⁴¹ Ibid;

⁴² The draft law on "personal data protection service", 30 November 2022; <http://bit.ly/40dJOP6>

⁴³ The new law on "special investigation service"; <http://bit.ly/3kPGObI>

⁴⁴ The new law on "personal data protection service"; <http://bit.ly/3jbtei0>

⁴⁵ What should be done to implement 12 recommendations? Open Society Georgia foundation (OSGF); 27 October 2022; <http://bit.ly/3HHWt5H>

⁴⁶ The civil society sector, 12 steps to EU candidacy, 27 July 2022; <https://bit.ly/3XKsl9H>

One of the main recommendations from the opposition parties and the civil society sector was to equip the anti-corruption bureau with investigative powers.

The Commission's recommendations are not specific by their nature, leaving the ruling party room to interpret them according to its political agenda. Therefore, the bureau was not equipped with the investigation powers, which still remain under the authority of the state security service.

As per the opinion of IDFI, the anti-corruption bureau is not granted all the necessary functions and powers that will ensure its independence.⁴⁷

In the legislative amendments proposed by the ruling party, it is emphasized that the bureau will be independent in its activities, despite the fact that the procedure for appointing the bureau's head decreases the institution's independence.

That is why the non-governmental sector questioned the independence of the anti-corruption bureau. "Transparency International-Georgia" (TIG) assessed the method of appointing the head of the bureau as problematic. According to Transparency International-Georgia, under the conditions when the head of the bureau is appointed by the Prime Minister, the real independence of the bureau cannot be ensured. According to the organization's recommendation, these guarantees will be ensured in case the head of the bureau is elected by the Parliament, as a result of the consensus between the political parties. The Anti-Corruption Bureau is accountable to the Parliament of Georgia and the Inter-Agency Anti-Corruption Council⁴⁸.

TIG has positively evaluated anti-corruption functions in one institution, i.e. bringing them under the activity of the Anti-Corruption Bureau, which is an accepted international practice. However, it works only on the condition that the bureau is actually independent⁴⁹.

The initial version of the draft law (as of October 26 2,022) did not include the power of monitoring the accuracy of the asset declarations of the public officials.⁵⁰ One of the non-governmental organizations – Democracy Research Institute (DRI) quickly reacted to the initial version of the draft law⁵¹ and stated that the Commissions recommendation would not be implemented if the bureaus authority did not include the power to investigate asset declarations of public officials and the financial monitoring of the political parties.⁵² The

⁴⁷ The draft law initiated on anti-corruption issues does not respond to the 4th priority of the European Union, Institute for development of freedom of information (IDFI), 1 November 2022; <http://bit.ly/3XJCKYI>

⁴⁸ Paragraph V², article 20¹², The law of Georgia on „conflict of interest and corruption in public service“, The parliament of Georgia, 30 November 2022;; <http://bit.ly/3Hevf1f>

⁴⁹ Evaluation of the law on the anti-corruption bureau, Transparency international-Georgia, 2 December 2022; <http://bit.ly/3kQhtOH>

⁵⁰ The new draft law, No 07-3/259/10, first hearing <https://bit.ly/3Js0GLV>

⁵¹ Amendments to be made to the law of Georgia on corruption do not meet the requirements of the 12-point plan of the European Union, Democracy research institute, 17 November 2022; <http://bit.ly/40p3TCf>

⁵² The statement of the “Democracy research institute” regarding the new draft law on „conflict of interest and corruption in public service, Democracy research institute, 17 ნოემბერი 2022; <https://bit.ly/40dPtok>

above-mentioned powers were added to the bureau in frameworks of the second hearing of the draft legislation⁵³.

Georgia's Reforms Associates (GRASS) published the evaluation document⁵⁴ of the implementation of the fourth recommendation of the Commission by the Government of Georgia. The organization believes that the government of Georgia has partially fulfilled the conditions related to anti-corruption reforms, as in light of the events, the independence of the anti-corruption bureau remains a challenge and there is a danger that the special investigation and personal data protection service will be politically biased⁵⁵. The opposition parties also evaluated the package of anti-corruption changes. According to Ana Natsvlishvili, a member of the "Lelo for Georgia" party, in order to fight corruption, it is necessary to provide guarantees of the independence of the anti-corruption bureau, otherwise the bureau will be just one more bureaucratic institution that will burden the state budget⁵⁶.

Notably in 2021, the "Lelo for Georgia" party, together with TIG, developed the draft law "On the National Anti-Corruption Agency"⁵⁷. The draft law provided for the creation of an independent anti-corruption agency, whose main activities would be: prevention of corruption in the public service, control of compliance by officials with the norms established by law to prevent and avoid corruption and conflict of interest in the public service; Control of financial activities of political parties. The investigative function was also included in the authority of the agency, which also meant that the State Security Service would no longer have the function of fighting corruption. Accordingly, this authority would fall under an independent body, the Anti-Corruption Agency.

Moreover, according to the draft law, the chairman of the anti-corruption agency would be elected by the Parliament of Georgia. The head of the agency would have legal immunity and he would carry out activities independently, the person would not be subordinated to any official or body. According to the bill, the chairman would be accountable to the parliament⁵⁸. The introduction of the draft law in the Parliament of Georgia took place on January 25, 2022⁵⁹.

On October 17, 2022, the "Lelo for Georgia" party once again demanded the review of the draft law on the creation of the anti-corruption agency. Salome Samadashvili, political secretary of "Lelo for Georgia" party, expressed the willingness at the briefing held in the parliament⁶⁰.

⁵³ The new law on „conflict of interest and corruption in public service“, The parliament of Georgia, 30 November 2022; <https://bit.ly/40aQxt2>

⁵⁴ EU candidacy check-state of implementation of 12 conditionalities, Georgia reforms association (GRASS), 15 January 2023; <https://bit.ly/3WLRHbq>

⁵⁵ Ibid;

⁵⁶ Statement of Ana Natsvlishvili, Georgian public broadcaster, 26 October 2022; <http://bit.ly/3XRQGzZ>

⁵⁷ "Lelo for Georgia" initiated a draft law on anti-corruption agency and investigative commission, Formula TV, 2 June 2021; <https://bit.ly/3lgGCSE>

⁵⁸ Draft law, On the National Anti-Corruption Agency" No07-3/158/10; <https://bit.ly/3JXTg3j>

⁵⁹ "The introduction of Draft law, on the "National Anti-Corruption Agency", t The parliament of Georgia, 25 January 2022; <https://bit.ly/3RdAMxs>

⁶⁰ "Lelo for Georgia" party demanded the review of the draft law on the creation of the anti-corruption agency, Formula TV, 17 October 2022; <https://bit.ly/3DZeLgt>

On November 9, 2022, during the committee hearings, the Committee on Procedural Issues did not support the draft "On the National Anti-Corruption Agency" submitted by the "Lelo for Georgia" party. According to Irakli Kadagishvili, the chairman of the Procedural Affairs Committee, the aforementioned legislative changes could not make significant changes in increasing the effectiveness of anti-corruption activities⁶¹. After December 5, 2022, the committee hearing of the "National Anti-Corruption Agency" draft was not renewed.

As for the second package of legislative changes, the opposition parties, together with the independent MPs, demanded a change in the procedure for appointing the head of the special investigative and personal data protection service. In particular, their appointment should be made "on the basis of political consensus, with a majority of 3/5 of the full composition of the Parliament". According to their main argument, changing the method of electing the head would increase the degree of independence of the bodies and provide them high legitimacy and credibility.

During the parliamentary discussions of the draft law, Paata Kereselidze, a member of the "for Georgia" party, asked Anri Okhanashvili why the above-mentioned recommendation was not shared by the ruling party, to which Anri Okhanashvili replied that no such instruction was issued by the European Commission within the 12-point plan, and therefore, they focused more on the strengthening the bureau institutionally rather than the strengthening of the position of the chairman⁶².

ANTI-CORRUPTION AGENCIES: INTERNATIONAL PRACTICE

The fight against corruption is a global problem. Throughout the world, in the majority of countries, the fight against corruption is carried out through a separate body - anti-corruption agencies (bureaus).

According to Transparency International, the anti-corruption agency, which is independent from government influence and equipped with investigative functions, successfully fights corruption and has the ability to hold the most influential persons of the state accountable⁶³. However, it is undoubted that only the creation of an anti-corruption agency cannot guarantee full success in the fight against corruption. According to international practice, in order for the agency to be successful, the country must first have a strong political will to combat the aforementioned problem.

One of the best examples of the effective work of the anti-corruption agency is Lithuania. After gaining independence from the Soviet Union, in the process of getting closer to the

⁶¹ The Committee on Procedural Issues did not support the draft "On the National Anti-Corruption Agency, Interpressnews 9 November 2022; <http://bit.ly/40Khh3S>

⁶² The draft law No 07-3/259/10, Audio record of the hearing of the draft law, The parliament of Georgia, 15 November 2022; <https://bit.ly/3Y93EZI>

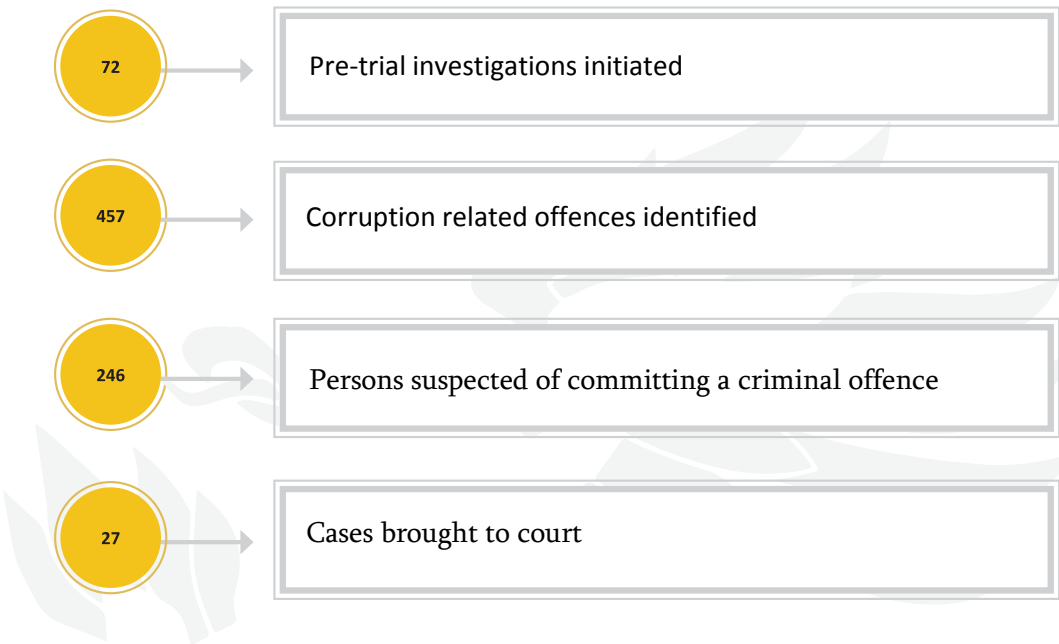
⁶³ Anti-corruption agency strengthening initiative, Transparency International; <http://bit.ly/3liwEJt>

European Union, the Lithuanian government, at the request of the European Union, soon began to develop mechanisms to fight corruption, which was a hot political issue for the country at that time.

Special Investigation Service was created in Lithuania. The agency was equipped with an additional lever in the fight against corruption, which meant an investigative function. Lithuanians created their own anti-corruption bureau on the model of the US Federal Bureau of Investigation (FBI)⁶⁴. In practice, the agency was established as a law enforcement institution, the main purpose of which is to detect and investigate corruption crimes, and to develop and implement necessary measures for the prevention of corruption.

The agency is accountable to the President and Parliament of the Republic of Lithuania⁶⁵. At the end of each year, the Anti-Corruption Agency of Lithuania publishes a report that presents all the corruption cases detected and investigated during the year⁶⁶. According to the Agency's 2021 report, preliminary investigations were initiated on 72 cases, 457 cases containing signs of corruption-related crimes were identified, 246 persons were charged with criminal offenses, and 27 cases were submitted to court ⁶⁷ (see Table 1). The mentioned report testifies how efficiently the agency works, whose main lever of work is the investigative function.

TABLE 1.



⁶⁴ Anti-corruption agencies, Can anti-corruption agencies be successful in combating corruption? The world bank, <https://bit.ly/3DZ9GED>

⁶⁵ About STT, special investigation service of the republic of Lithuania, 11 november 2022; <https://bit.ly/3YoTZyQ>

⁶⁶ STT annual reports, Special investigation service of the republic of Lithuania; <https://bit.ly/3SabQaJ>

⁶⁷ Report on the activities of the special investigation service of the republic of Lithuania 2021; <https://bit.ly/3YNWg6K>

Singapore and Hong Kong are also successful examples in terms of having operational and independent anti-corruption agencies. The Corrupt Practices Investigation Bureau (CPIB) of Singapore is one of the oldest agencies in the world. The function of the bureau is to investigate any corruption in both the public and private sectors and also any other crime established by law.⁶⁸

Like Singapore, Hong Kong's "Independent Commission Against Corruption" (ICAC) is actively fighting corruption in the country through investigative functions. The anti-corruption commission unites four independent departments, which have different functions to fight corruption. The most important of these is the investigative department. The department is responsible for the investigation of acts containing elements of the crime established by the anti-corruption legislation.

The Hong Kong Anti-Corruption Bureau actively enforces its mandate. According to the data of 2021, 200 people were suspected of corruption crimes and investigations were started on 112 cases⁶⁹. It should be noted that in the "Transparency International" Corruption Perception Index (CPI), Singapore⁷⁰ ranks 4th and Hong Kong ranks 12th.

Therefore, based on the international practice, it is clear that for the effective work of the anti-corruption agency, in addition to the institutional guarantees of its independence, it is necessary that the agency has the function of investigating corruption facts.

SUMMARY

Fulfilling the 12 recommendations of the European Commission is one of the main challenges and obligations of the country. Despite the fact that the Government declared its full readiness to fulfill the mentioned obligations, as of today, Georgia has fully implemented only one recommendation⁷¹.

The legislative changes carried out within the framework of the implementation of the fourth recommendation do not fully meet the request of the European Commission, which is caused by the fact that the law on the anti-corruption bureau cannot ensure that the anti-corruption bureau is equipped with all the main levers necessary to effectively fight corruption.

⁶⁸ CPIB roles and functions, A Singapore Government Agency;

<http://bit.ly/3YpUatW>

⁶⁹ Hong Kong ICAC-The Facts, The government of the Hong Kong, 2022;

<https://bit.ly/3lIUWck>

⁷⁰ Singapore: CPI Transparency International;

<http://bit.ly/3Xti5Y6>

⁷¹ EU candidacy check-state of implementation of 12 conditionalities, Georgia reforms association (GRASS),15 January 2023;

<https://bit.ly/3WLRHbq>

The shortcoming of the new anti-corruption bureau is also manifested in the fact that the institution does not have an investigative function, and the procedure for appointing the head of the anti-corruption bureau calls into question the institutional independence of the bureau.

The international practice of the anti-corruption bureau indicates that the assignment of the investigative mandate is critical for the agency's effective functioning. Lithuania stands out as one of the best examples of this. The country, which has the same past as Georgia, was able to create an effective anti-corruption agency, which, thanks to its investigative mandate, successfully fights corruption at both the petty and elite levels.

The international experience of the countries shows that any effort taken to combat corruption would yield no benefits unless the bureau's independence is also guaranteed. Furthermore, the achievements in the battle against corruption are more obvious in countries where the anti-corruption agency has a high degree of independence.

As a result, all legislative changes implemented by the authorities to fulfill the fourth recommendation leave the perception of formal fulfillment of the obligation. The anti-corruption bureau does not entirely share the work model of successful countries' anti-corruption organizations, which includes equipping it with investigative functions.

TABLE 2.

DID THE RULING PARTY SHARE THE RECOMMENDATIONS GIVEN BY THE OPPOSITION PARTIES?

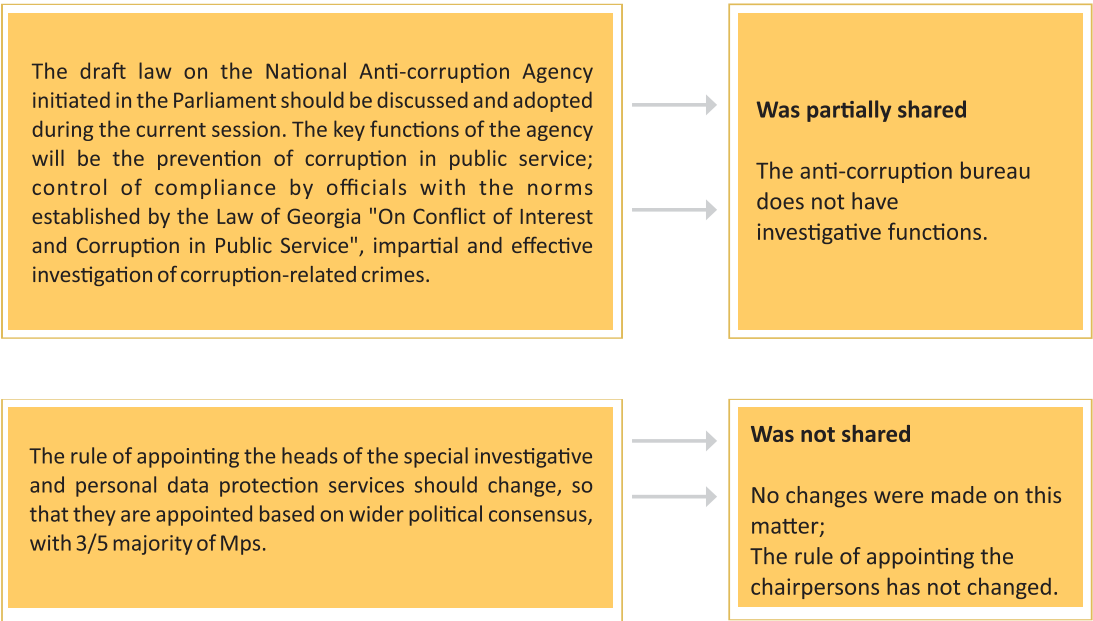


TABLE 2.

**DID THE RULING PARTY SHARE THE RECOMMENDATIONS
GIVEN BY THE CIVIL SOCIETY SECTOR?**

| | |
|--|---|
| <p>Anti-corruption agency-The draft law on "National anti-corruption agency" is initiated in the parliament of Georgia and unifies three anti-corruption departments, that are currently scattered in different institutions (Anti-corruption agency- State security service department, state audit department on monitoring political party finance and public service bureau department on monitoring asset declarations) and establishes the independent institute, with main duty to fight corruption especially on the high level.</p> | <p>Was partially shared</p> <p>The Anti-corruption Bureau does not include the Anti-corruption Department of the State Security Service; The chairperson of the anti-corruption bureau is appointed by the prime-minister, which raises question marks on the independence of the institute.</p> |
| <p>To enhance special investigation service and personal data protection service, the rule of appointing the heads of the special investigative and personal data protection services should change, so that they are appointed based on wider political consensus, with 3/5 majority of MPs.</p> | <p>Was not shared</p> <p>The rule of appointing the chairpersons has not changed;</p> |

As part of the project "**Civil Monitoring of Accountability, Transparency and Anti-Corruption Activities within the Framework of the 12 Recommendations of the European Union,**"
a performance report on
EU Commission's fourth recommendation – (anti-corruption policy),
has been prepared by the Virtual Democracy Academy
in cooperation with Civic IDEA.



The project is implemented with funding from the European Union and the Konrad Adenauer Foundation and in coordination with the Center for Strategic Research and Development of Georgia.



The author of the report: **KHATIA NIKOLAISHVILI**
Responsible for the publishing: **SALOME SVANIDZE**