

SMALL STEPS TOWARDS BIG GOALS:

GEORGIA'S ANTI-CORRUPTION POLICY IN  
THE CONTEXT OF EU ASSOCIATION PROCESS



JUNE 2019



Sweden/შვედეთი

**Sverige**

*The publication was prepared with the financial support of Swedish International Development Cooperation Agency (SIDA). Transparency International Georgia is responsible for the content of the publication. It might not necessarily reflect the views of SIDA.*

## EXECUTIVE SUMMARY

The Association Agreement between the European Union and Georgia, as well as the Association Agenda for 2017-2020 approved by the parties to facilitate the implementation of the Association Agreement, provide for cooperation between the parties in combating corruption, while highlighting Georgia's commitment to address corruption, in particular complex corruption.

Over the year and a half since the adoption of the current Association Agenda, Georgia has attained positive results in terms of maintaining previous achievements in terms of eradicating petty corruption. However, Georgia's progress in tackling high-level corruption remains weak.

According to public opinion surveys, citizens have a negative view of both the overall situation in the country in terms of corruption and the dynamics of this situation. They believe that the government does not effectively investigate the cases of corruption involving high-ranking officials or influential individuals with ties to the ruling party.

Such public attitudes evidently stem from the ineffective response of the law enforcement agencies to recent high-profile cases of alleged corruption related to a variety of criminal activities, including unlawful interference with business activities, illegal participation in entrepreneurial activities, illegal enrichment, violation of party and campaign financing rules, and others.

Ineffectiveness of the law enforcement agencies in terms of addressing high-level corruption is largely a result of the current nature of the political system: the concentration of power in the hands of a single political party, which makes it possible for this party to exert undue influence on the activities of these and other public institutions.

In addition, the National Action Plan for 2018 approved by the Government of Georgia to facilitate the implementation of the Association Agreement and the Association Agenda, was mainly focused on the activities of technical nature (especially training sessions), which are useful by themselves, but cannot address the above-mentioned systemic problems.

To overcome these systemic problems, the Georgian authorities must ensure the independence of the Anti-Corruption Agency and its protection from partisan influence, on the one hand, while also promoting, in the long run, the establishment of a more pluralistic political system. Replacing the mixed electoral system with a fully proportional one would be the first important step forward.

## INTRODUCTION: ANTI-CORRUPTION COMMITMENTS IN THE ASSOCIATION AGREEMENT AND THE ASSOCIATION AGENDA

The Association Agreement signed by the European Union and Georgia in 2014, as well as the Association Agenda for 2017-2020, which aims to facilitate the implementation of the Association Agreement, include a number of provisions on the reforms which Georgia is expected to implement in terms of combating corruption.

Article 4 of the Association Agreement states that:

"The Parties shall cooperate...on continuing effective fight against corruption, particularly in view of enhancing international cooperation on combating corruption, and ensuring effective implementation of relevant international legal instruments, such as the United Nations Convention Against Corruption of 2003."<sup>1</sup>

Additionally, the main goals of the Association Agenda for 2017-2020 include ensuring:

"Effective implementation of the Anti-corruption National Strategy and Action plan to prevent, detect and address corruption, in particular complex corruption as well as implement the verification of the asset and income declarations of all relevant officials."<sup>2</sup>

The Association Agenda establishes cooperation priorities for the period 2017-2020. It distinguishes between short-term priorities (which should be achieved or on which significant progress should be made by end 2018) and medium-term priorities (which should be achieved or on which significant progress should be made by end 2020).

Because a year and a half has passed since the approval of the 2017-2020 Association Agenda, it is interesting and important to discuss what Georgia has done in terms of implementing the these priorities and how closely it has moved to the final goals established by the Association Agenda.

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<sup>1</sup> The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, 16 June 2014, Article 4.

<sup>2</sup> Association Agenda Between the European Union and Georgia, 2017-2020, 10.

As noted above, along with setting key goals in each area, the 2017-2020 Association Agenda establishes the priority issues that must be addressed in order to facilitate the achievement of those goals. As far as anti-corruption policy is concerned, the Association Agenda identifies the following priorities:

- Continue combating corruption, and ensure effective implementation of relevant international legal instruments, such as the UN Convention Against Corruption, and the Criminal Law Convention on Corruption and its Additional Protocol, as well as of recommendations of the Council of Europe's Group of States against Corruption (GRECO) and the recommendations of the OECD-Anti-Corruption Network for Eastern Europe and Central Asia;
- Improve citizens' right to information as one of key measures to effectively prevent corruption;
- Continue strengthening capacity of existing oversight, audit and financial investigation bodies;
- Reinforce oversight capacities of the parliament by improving capacity of sectoral committees;
- Continue ensuring effective implementation of the Anti-corruption National Strategy and the relevant Action plan to prevent, detect and address corruption;
- Continue ensuring an effective investigation of alleged cases of corruption and create an effective system for the prevention of the conflict of interest<sup>3</sup>.

The Government of Georgia adopts annual National Action Plans for the implementation of the Association Agreement and the Association Agenda. These Action Plans represent the list of activities which the relevant government agencies should undertake during the year in order to achieve the goals set in the Association Agreement and the Association Agenda and to address the relevant priority issues.

The 2018 National Action Plan<sup>4</sup> envisaged a number of activities designed to address the priority issues established by the Association Agenda. A detailed list of these activities is provided in the Annex to this report.

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<sup>3</sup> Association Agenda Between the European Union and Georgia, 2017-2020, 16-18.

<sup>4</sup> The 2018 National Action Plan for the Implementation of the Association Agreement between Georgia, of the one part and the European Union and the European Atomic Energy Community and their Member States, of the other part and the Association Agenda between Georgia and the European Union, <http://mfa.gov.ge>

It is more important to examine whether the activities of the National Action Plan were designed effectively from the very beginning, to what extent these activities have helped address the priority issues outlined in the Association Agenda, and how closer Georgia has moved to the goals of the Association Agreement and the Association Agenda as a result of implementing these activities.

The anti-corruption policy components of the 2018 National Action Plan were mainly focused on conducting training sessions and information meetings for the representatives of relevant agencies. For example, the Action Plan envisaged training sessions for the employees of the Secretariat of the Anti-Corruption Council, of the internal audit units of public institutions, and of the Anti-Corruption Agency of the State Security Service, as well as for the prosecutors and employees of the Prosecutor's Office.

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*The 2018 National Action plan focused mainly on training*

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The Action Plan also included some continuous and long-term activities implemented by public institutions as part of their core responsibilities, such as the monitoring of the National Anti-Corruption Action Plan (by the Ministry of Justice) and the verification of public officials' asset declarations (by the Civil Service Bureau).

One important legislative amendment included in the Action Plan involved developing the Law on Freedom of Information and submitting it to the Parliament. This task, however, has not been completed yet.

Although the National Action Plan does not involve the Georgian Parliament's activities, the adoption of the Parliament's new Rules of Procedure in 2018 was an important step in the context of one of the anti-corruption priorities of the Association Agenda (reinforcing oversight capacities of the parliament) as it contains a number of positive changes in terms of overseeing the government activities.<sup>5</sup>

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<sup>5</sup> *Assessment of the oversight function defined by the new rules of procedure of the Georgian Parliament*, Transparency International Georgia, 30 November 2018, <https://www.transparency.ge/en/blog/assessment-oversight-function-defined-new-rules-procedure-georgian-parliament>

To answer this question, we need to discuss the indicators that are commonly used for assessing the situation in a country in terms of corruption. We shall focus on three such indicators:

1. Transparency International's Corruption Perceptions Index
2. Public opinion surveys
3. The Practice of the government's response to alleged high-profile cases of corruption

Below, we will attempt to establish whether the situation in terms of corruption has improved since 2017 according to these three indicators.

### CORRUPTION PERCEPTIONS INDEX

Georgia's score in Transparency International's annual Corruption Perceptions Index (CPI, the most authoritative international anti-corruption ranking) was 56 in 2017, raising by two points to 58 in 2018 (on a scale where 0 is the worst and 100 is the best possible result). However, according to the survey methodology, a two-point change is considered statistically insignificant and does not point to an essential change in the situation. Georgia is not among the countries whose CPI score has improved significantly in recent years.

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*"Despite an urgent need to investigate cases of corruption and misconduct in the government, Georgia has failed to establish independent agencies to take on this mandate" (Transparency International, Corruption Perceptions Index 2018).*

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Moreover, Transparency International noted in the 2018 CPI report that, "despite an urgent need to investigate cases of corruption and misconduct in the government, Georgia has failed to establish independent agencies to take on this mandate."<sup>6</sup>

It is worth noting that the Corruption Perceptions Index is a composite index, so any country's score in this ranking is the average score derived from the findings of the studies carried out by a variety of reputable international organizations.

### PUBLIC OPINION SURVEYS

According to the public opinion polls conducted since the adoption of the current Association Agenda, the situation in terms of corruption either has not changed or has changed for the worse.

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<sup>6</sup> *Eastern Europe & Central Asia: Weak Checks and Balances Threaten Anti-Corruption Efforts*, Transparency International, 29 January 2019, [https://www.transparency.org/news/feature/weak\\_checks\\_and\\_balances\\_threaten\\_anti\\_corruption\\_efforts\\_across\\_eastern\\_eu](https://www.transparency.org/news/feature/weak_checks_and_balances_threaten_anti_corruption_efforts_across_eastern_eu)

According to the public opinion survey commissioned by Transparency International Georgia and conducted by the Caucasus Research Resource Centers (CRRC) in February and March 2019, 36% of respondents said that "abuse of power by public officials for personal gain" is common.<sup>7</sup> The figures are identical to the results of the public opinion survey conducted in 2018<sup>8</sup>.

Both the 2018 and the 2019 polls point to a positive situation in terms of petty corruption levels (in both cases, only 1% of respondents said that they or their family members had been asked to pay a bribe for public services over the

preceding 12 months). However, 51% of respondents surveyed in 2019 believe that instances of corruption are not investigated properly when they involve high-ranking officials or influential individuals with links to the ruling party. Only 27% of respondents believe that such cases are investigated properly.

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*According to recent surveys, only 27% of the people believe that cases of high-level corruption are investigated effectively in Georgia and only 15% think that the situation is improving in terms of corruption.*

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According to a public opinion survey commissioned by the US National Democratic Institute (NDI) and conducted by the CRRC in December 2018, 34% of respondents believe that the situation with regard to corruption is not changing at all, another 34% think that the situation is changing for worse, and only 15% think that it is improving.<sup>9</sup> According to the same survey, 50% of respondents believe that corruption is common or very common in Georgia, while 21% of respondents said that corruption is relatively uncommon or not common at all.<sup>10</sup>

#### RESPONSE TO ALLEGATIONS OF CORRUPTION

A number of recent alleged high-profile cases of corruption indicate that the law enforcement agencies do not effectively respond to the cases of corruption involving high-ranking officials or influential persons with links to the ruling party.

A number of recent high-profile cases of possible involvement of high-ranking officials and politicians in corruption should be highlighted:

- The so called "Omega case": A scandal which began after Zaza Okuashvili, one of the founders of the Omega Group, spoke out against the government and a number of secretly-recorded audio tapes were released. According to the publicized materials, there was a deal between private companies, representatives of different government institutions, and influential individuals with links to the ruling party which involved abuse of power by the officials to

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<sup>7</sup> *Corruption Remains Significant Challenge in Georgia*, Transparency International Georgia, 15 April 2019, <https://www.transparency.ge/en/post/corruption-remains-significant-challenge-georgia>

<sup>8</sup> *Public Opinion Survey: Corruption, Trust in Institutions and Issues Of Public Policy*, Transparency International Georgia, 11 May 2018, <https://www.transparency.ge/en/post/public-opinion-survey-corruption-trust-institutions-and-issues-public-policy>

<sup>9</sup> *NDI: Public attitudes in Georgia, December 2018*, <https://caucasusbarometer.org/en/nd2018ge/DIRCORR/>

<sup>10</sup> *NDI: Public attitudes in Georgia, December 2018*, <https://caucasusbarometer.org/en/nd2018ge/CORRGEO/>



ensure dominant position of the companies in question on the tobacco market and the division of the resulting profit between the companies and a group of individuals with links to the ruling party. The materials contained references to Deputy Prime Minister Dimitri Kumsishvili, Competition Agency Head Nodar Khaduri, former Chief Prosecutor Otar Partskhaladze and ruling party chairman Bidzina Ivanishvili.<sup>11</sup>

- A journalist investigation concerning expensive real estate owned by high-ranking officials (including MPs, ministers and judges).<sup>12</sup>
- Vote buying<sup>13</sup> and multiple cases of alleged violation of campaign finance legislation during the 2018 presidential election which benefitted the presidential candidate backed by the ruling party and were not addressed effectively.<sup>14</sup>
- The statement by Mamuka Khazaradze, founder of the TBC Bank, that the government exerted pressure on him during the 2018 presidential election in order to force him to take actions benefiting the presidential candidate backed by the ruling-party.<sup>15</sup>
- A journalist investigation concerning the suspicious enrichment of Deputy Justice Minister Alexander Tabatadze<sup>16</sup>.
- A journalist investigation concerning the undisclosed property of former Deputy Prime Minister Dimitri Kumsishvili<sup>17</sup>.
- The case of Mirza Subeliani, a former senior employee of the Prosecutor's Office, who was accused of obstructing the investigation into the high-profile murder case, but received a mild sentence, possibly due to his previous services to the ruling party<sup>18</sup>.

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<sup>11</sup> *Smoke of Corruption: The Grand Scheme to Allocate the Tobacco Market*, Transparency International Georgia, 03 October 2018, <https://www.transparency.ge/en/blog/smoke-corruption-grand-scheme-allocate-tobacco-market>

<sup>12</sup> *Journalists expose the lavish homes of Georgian MPs and ministers*, Jam News, <https://jam-news.net/journalists-expose-the-lavish-homes-of-georgian-mps-and-ministers/>

<sup>13</sup> *Evaluation of the pre-election environment of the 2018 presidential runoff*, International Society for Fair Elections and Democracy, Transparency International Georgia, Georgian Young Lawyers' Association, 01 December 2018, <https://www.transparency.ge/en/post/evaluation-pre-election-environment-2018-presidential-runoff>

<sup>14</sup> *Georgia Presidential Election, 28 October and 28 November 2018*, ODIHR Election Observation Mission Final Report, 28 February 2019, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

<sup>15</sup> *Eleven questions about the case of Mamuka Khazaradze and TBC Bank*, Transparency International Georgia, 22 March 2019 <https://www.transparency.ge/en/post/eleven-questions-about-case-mamuka-khazaradze-and-tbc-bank>

<sup>16</sup> *Property That Grew by 3 Million Under Georgian Dream Government: Aleksandre Tabatadze, Official Millionaire From Government*, Rustavi-2 (in Georgian), 11 May 2019, <http://rustavi2.ge/ka/news/133095>

<sup>17</sup> *High-Ranking Officials' Hidden Property -- Journalist Investigation*, Radio Liberty (in Georgian), 9 March 2019, <https://www.youtube.com/watch?v=hq5NTyjjvz6A&feature=youtu.be&fbclid=IwAR02I9j5R8c6Dm3kjc4xRqeTHzFBplQLmCiNivp2N7nkU4Rno6AqGSlmQtg>

<sup>18</sup> *Mirza Subeliani's Case: Objective Justice or Pre-Determined Decision*, Transparency International Georgia, 12 March 2019, <https://www.transparency.ge/en/blog/mirza-subelianis-case-objective-justice-or-pre-determined-decision>

- The State Audit Office's finding that public property was handed over to a company linked with former Chief Prosecutor Otar Partskhaladze under suspicious circumstances (shortly after the publication of the report, Partskhaladze physically assaulted General Auditor Lasha Tordia).<sup>19</sup>

Along with these cases, there has been a general tendency of a lack of effective response to alleged violations of the legal provisions designed to prevent conflict of interest and corruption committed by public officials. The cases in question have involved public officials receiving suspicious gifts,<sup>20</sup> illegal political and electoral donations<sup>21</sup> and illegal participation of public officials in business and incomplete disclosure of their assets and connections with private companies.<sup>22</sup>

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*The relevant agencies fail to effectively address instances of corruption involving high-ranking officials and influential persons with links to the ruling party.*

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All these cases indicate that relevant agencies fail to effectively address instances of corruption involving high-ranking officials and influential persons with links to the ruling party (during the same period of time, many lower-ranking officials were indicted on corruption charges).

In addition, despite the improvements in the legislation governing parliamentary oversight, the parliamentary majority has not demonstrated the political will to effectively exercise its relevant powers, as indicated by the deliberations on the final conclusion of the ad hoc parliamentary commission which conducted an inquiry into a high-profile murder case,<sup>23</sup> as well as the parliamentary discussions on the TBC Bank case.<sup>24</sup>

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<sup>19</sup> *Unlawful transfer of property to Otar Partskhaladze's company must be investigated*, Transparency International Georgia, 28 February 2018, <https://www.transparency.ge/en/post/unlawful-transfer-property-otar-partskhaladzes-company-must-be-investigated>

<sup>20</sup> *Gifts received by public officials need to be studied further*, Transparency International Georgia, 07 March 2018, <https://www.transparency.ge/en/blog/gifts-received-public-officials-need-be-studied-further>

<sup>21</sup> *Election Campaign Finances in Georgia: 2016 Parliamentary Elections*, Transparency International Georgia, 31 March 2017, <https://www.transparency.ge/en/post/report/election-campaign-finances-georgia-2016-parliamentary-elections>

<sup>22</sup> *Entrepreneurial activity of members of the Georgian government*, Transparency International Georgia, 07 December 2018, [https://www.transparency.ge/ge/blog/sakartvelos-mtavrobis-cevrebis-samecarneo-sakmianoba/?custom\\_searched\\_keyword=%E1%83%A1%E1%83%90%E1%83%9B%E1%83%94%E1%83%AC%E1%83%90%E1%83%A0%E1%83%9B%E1%83%94%E1%83%9D](https://www.transparency.ge/ge/blog/sakartvelos-mtavrobis-cevrebis-samecarneo-sakmianoba/?custom_searched_keyword=%E1%83%A1%E1%83%90%E1%83%9B%E1%83%94%E1%83%AC%E1%83%90%E1%83%A0%E1%83%9B%E1%83%94%E1%83%9D); *Business connections of MPs, Incompatible Activities and Undeclared Assets*, Transparency International Georgia, 25 September 2017, <https://www.transparency.ge/en/post/business-connections-mps-incompatible-activities-and-undeclared-assets>

<sup>23</sup> *Non-governmental organizations' statement concerning findings and recommendations by Temporary Investigative Commission on Khorava Street Crime*, 20 September 2018, <https://www.transparency.ge/en/post/non-governmental-organizations-statement-concerning-findings-and-recommendations-temporary>

<sup>24</sup> *Disrupted Discussion about the TBC Bank in the Parliament Intensifies Doubts Regarding the Political Bias of the Issue*, 27 February 2019, <https://www.transparency.ge/en/post/disrupted-discussion-about-tbc-bank-parliament-intensifies-doubts-regarding-political-bias>

The indicators reviewed in the previous section (international rankings, public opinion polls, the practice of responding to instances of corruption) show that, while Georgia has maintained the progress in eradicating petty corruption, addressing complex cases of corruption remains a problem, especially when they involve high-ranking officials or influential individuals with links to the ruling party.

The resolution adopted by the European Parliament in November 2018 regarding the implementation of the Association Agreement with Georgia acknowledges Georgia's results in fighting low and mid-level corruption, but highlights nevertheless that high-level elite corruption "remains a serious issue" and that "a solid track record of investigations into high-level cases of corruption" is yet to be established. The European Parliament calls on the Georgian government to ensure that the Anti-Corruption Agency is independent, free of any political interference and separated from the State Security Service.<sup>25</sup>

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*"High-level elite corruption remains a serious issue"  
(from the European Parliament's November 2018  
resolution on Georgia).*

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This tendency (ineffective response by the agencies in charge of combating corruption to the case of high-level corruption) indicates that the ruling party has undue influence over these agencies and that the agencies do not enjoy a proper degree of autonomy.

The problem stems from the current political system of Georgia, where one political party holds effectively unlimited power and uses this power to appoint individuals of its choice to all important public positions. As far as anti-corruption policy is concerned, it should be noted that the two main agencies responsible for addressing corruption in Georgia (the State Security Service and the Prosecutor's Office) are currently led by the ruling party leader's former personal chief of security and his former personal attorney.

In this situation, when systemic problems have made it impossible to effectively respond to the case of high-level corruption, Georgia is unlikely to make progress in the field of anti-corruption policy through the activities which the National Action Plan mainly focuses on (various types of training sessions). Progress requires systemic reforms, including:

- Establishment of an independent anti-corruption agency that will work transparently and will be protected from partisan influence.
- A transition to a system of fully proportional representation in parliamentary elections that will promote political pluralism, reduce the concentration of power in the hands of a single

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<sup>25</sup> European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Georgia, [http://www.europarl.europa.eu/doceo/document/TA-8-2018-0457\\_EN.html](http://www.europarl.europa.eu/doceo/document/TA-8-2018-0457_EN.html)

political party and ensure the formation of professional and truly independent public institutions (including the law enforcement agencies).

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THE MINISTRY OF JUSTICE:

- Monitor 2017-2018 Anti-Corruption Action Plan (fulfillment indicator: the 2017-2018 Monitoring Report has been presented to the Anti-Corruption Council).
- Prepare corruption risk assessment methodology (fulfillment indicator: employees of the Anti-Corruption Council's Secretariat have attended at least one training session on risk assessment and a draft of the methodology has been submitted to the Anti-Corruption Council for consideration).
- Develop the law on freedom of information (fulfillment indicator: the draft law on freedom of information has been submitted to the Parliament).

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THE MINISTRY OF FINANCE:

- Conduct training sessions according to the annual plan for the improvement of qualification of the employees of internal audit bodies, including the training on identifying and eliminating signs of corruption (fulfillment indicator: 25 internal auditors attended the training sessions held with the participation of an international expert in the issues of identifying and eradicating the signs of corruption).
- Re-train local trainers in detecting and preventing corruption for sustainability and continuous development (fulfillment indicator: at least three auditors participated in the training session in detecting and preventing corruption and instruction has been developed for internal auditors on the issue of detecting and preventing corruption).

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THE CIVIL SERVICE AGENCY

- Monitor asset declarations of public officials (fulfillment indicator: the results and the report on monitoring asset declarations of public officials).

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THE STATE SECURITY SERVICE

- Continue bilateral and multilateral cooperation with the relevant agencies of partner countries and international organizations on the prevention of corruption and the fight

against it (fulfillment indicator: topics and number of conducted events: number of initiated agreements).

- Professional development of the State Security Service's Anti-Corruption Agency (Department); implement a special educational program of re-training (fulfillment indicator: topics and number of conducted events; number of re-trained employees).

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#### THE PROSECUTOR'S OFFICE

- Re-train prosecutors and investigators in the issues of investigation and criminal prosecution of corruption crimes (fulfillment indicator: at least five educational events were conducted; number of re-trained persons).
- Conduct information meetings with representatives of internal control services of public institutions (fulfillment indicator: at least two educational meetings held).