

9 Steps Georgia Is Expected to Take to Advance to the Stage of Negotiations with the EU: Anti-Corruption Reform

The European Union decided to grant the status of candidate country to Georgia, on the [understanding](#) that the [nine](#) steps set out in the Commission recommendation of 8 November 2023 are taken.

Joining the European Union necessitates the implementation of robust anti-corruption measures, in particular **ensuring political and institutional independence of the Anti-Corruption Bureau** and **rigorously addressing high-level corruption**. Additionally, combating high-level corruption is **integral to fulfilling the European Commission's recommendation on de-oligarchization**.

European Commission Recommendations¹

The European Commission is requesting the Georgian government to undertake anti-corruption reforms in line with the recommendations from the Venice Commission.

The Venice Commission concluded that bringing various preventive anti-corruption functions together in the Anti-Corruption Bureau **falls short of the stated aim of rigorously addressing high-level corruption**. Additionally, the Venice Commission identified deficiencies in the Bureau's independence, accountability, and mandate.

According to the Venice Commission's [opinion](#):

■ **To increase the independence and perception of political neutrality of the Anti-Corruption Bureau**, the following steps have to be taken:

- » Appoint head of the Bureau either with a qualified majority in Parliament, coupled with a suitable anti-deadlock mechanism (requiring more than an ordinary majority), or an appropriate alternative, reflecting a broad, cross-party agreement in Parliament (for example, in the form of a double majority, entailing a majority among members of parliament both from the majority and the opposition).
- » Increase the professional requirements for the position of head of the Bureau;
- » Refine provisions on early termination of the term of office of the head of the Bureau;
- » Provide functional immunity to the head of the Bureau and his/her deputies;
- » Remove the accountability of the Bureau to the Inter-Agency Anti-Corruption Council and set up an advisory council under the Bureau instead.

■ **Enhance powers and accountability of the Bureau**, namely:

- » Empower the Bureau with the authority to investigate cases of high-level corruption;
- » Ensure that the Bureau carries out substantive and effective verifications of asset and interest declarations, with a focus on assessing declarations against officials' legal income to reveal illicit enrichment. Subsequently, refer such cases to the Prosecutor's Office for further investigation;
- » Implement a risk-based approach in selecting declarations to be verified.

Under the [European Commission's recommendations](#):

- » Reverse the government's decision to withdraw from the OECD/ACN monitoring process;
- » Fulfill recommendations of previous monitoring rounds of the OECD/ACN;
- » Adopt and implement a new Anti-Corruption Strategy and Action Plan;
- » Proactively publish detailed statistics and analytics on the detection of corruption cases, especially high-level corruption cases;
- » Strengthen public communication and accountability on high-level corruption cases.

The bill initiated in the Parliament of Georgia

On 26 February 2024, a package of legislative amendments was [proposed](#) at the sitting of the Bureau of the Parliament. According to the explanatory note, the package envisages amendments in the anti-corruption area in response to the European Commission's recommendations.

Transparency International Georgia's Assessment

The legislative package, initiated in the Parliament of Georgia disregards critical recommendations set out by both the European Commission and the Venice Commission. Significantly, the bill neglects to secure the independence and political neutrality of the Anti-Corruption Bureau, nor does it grant the Bureau the necessary authority to investigate cases of high-level corruption.

■ **What specific recommendations from the Venice Commission does the bill fail to address?**

- » **The rules for appointing the head of the Bureau remain unchanged.** The appointment of the Bureau's head should be vested in Parliament, requiring either a qualified majority vote or a cross-party consensus. This approach aims to safeguard the political neutrality and institutional independence of the Anti-Corruption Bureau. Additionally, the Commission has expressed reservations regarding the composition of the competition commission tasked with nominating candidates for the Bureau's head, emphasizing that the composition of the commission is not sufficiently pluralistic.
- » **The Bureau will not be equipped with the authority to investigate high-level corruption cases.** According to the Venice Commission, the Anti-Corruption Bureau falls short of the stated aim of rigorously addressing high-level corruption (N4 priority of the European Commission, 2022).
- » The proposed amendments **overlook the implementation of a risk-based approach in selecting asset declarations for verification**. Additionally, **the bill does not define a potential conflict of interest**. According to the Venice Commission's recommendation, asset verifications should be carried out to effectively reveal the illicit enrichment of public officials.
- » **The power to decide early termination of the head of the Bureau's term in office still rests with the Prime Minister.** The Commission concluded that the existing law provides for an inordinately strong influence of the Prime Minister over the selection of the head of the Bureau and the termination of his/her term in office, casting a shadow over the independence of the Bureau and perceptions of its political neutrality as well as its ability to rigorously address high-level corruption.
- » **The professional requirements for the position of head of the Bureau do not change.** The Venice Commission considers the minimum requirement of five years of work experience in the system of justice, law enforcement bodies or human rights quite low. The Commission stresses that relevant experience is particularly important for the head of the Bureau as professional competence enhances the institution's autonomy.
- » **The amendments do not remove the accountability of the Bureau to the Inter-Agency Anti-Corruption Council of the government.** Per the Venice Commission's assessment, there is effectively a triple accountability: the Parliament, the Council and the Prime Minister. According to the Venice Commission recommendation, the Bureau should only be accountable to the Parliament and a mechanism/platform similar to the Council should be set up under the Bureau instead.
- » **The amendments fail to provide functional immunity to the deputy heads of the Bureau.**

Despite the European Commission's recommendation, the Government of Georgia has not yet reversed the decision to withdraw from the OECD/ACN monitoring process. The Government has not developed a new Anti-Corruption Strategy and an Action Plan.

■ **The bill only addresses the following recommendations of the Venice Commission:**

- » **The bill provides clarification regarding the immunity of the head of the Anti-Corruption Bureau.** In particular, criminal prosecution, detention, or arrest of the head of the Bureau, as well as the conduct of a personal search or search of his/her residence, workplace, or car, will only be possible with the prior consent of the Parliament of Georgia. Exception from this shall be catching the head of the Bureau in *flagrante delicto*. If the Parliament fails to give its consent in 48 hours, the head of the Bureau must immediately be released.
- » **The bill clarifies one of the reasons for the early termination of the head of the Bureau's term:** holding a position or carrying out activities incompatible with the position of the head of the Bureau, or **substance abuse and evading the mandatory drug test** will no longer be grounds for early termination of the head of the Bureau's term.
- » **The head of the Anti-Corruption Bureau no longer has the authority to request a mandatory drug test and its relevant documentation** from the President of Georgia, a member of the Parliament, a member of the Supreme Councils of the Autonomous Republics of Abkhazia and Adjara, the chairpersons of the Governments of the Autonomous Republics of Abkhazia and Adjara, a member of the Government of Georgia and his/her deputy and heads of institutions and their deputies of the Autonomous Republics of Abkhazia and Adjara.

» A provision was added to the bill stating that the Anti-Corruption Bureau will exercise its powers following Georgia's Law on Personal Data Protection.

Regrettably, the bill completely ignores crucial recommendations put forth by the Venice Commission regarding the autonomy, political neutrality, and transparency of the Anti-Corruption Bureau. Additionally, it fails to grant the Bureau the authority to investigate high-level corruption cases.

■ **The proposed amendments include provisions that deviate from recommendations by both the European Commission and the Venice Commission, exacerbating current practices, notably:**

- » According to the proposed version, **should a public official's asset declaration contain an error**, the Bureau will inform the official within one month and grant a further month for correction. **During this period, the Bureau is authorized not to publish the submitted asset declaration nor to provide it as part of a FOI request.**

This amendment is undeniably a step backwards. If the Bureau's purpose is to protect the correctness and accuracy of the data reflected in the declaration, **it could provide declarants with an electronic system version that automatically cross-references information from various state databases**. As a result, the occurrence of such errors will be minimized, particularly when a declarant "omits" to disclose certain movable and immovable property, business interests, income, or other relevant information. **Arbitrarily limiting the public accessibility of asset declarations contradicts established international standards and best practices.**

- » According to the initiated version, **the Anti-corruption Bureau will exercise its powers in compliance with the Code On the Rights of the Child**. Neither the Venice Commission nor any other international organizations recommended the clarification of this provision. Although compliance with this Code itself is not a problem, it raises the clarification that the Code could be utilized by the Bureau to exclude officials' child/children (stepchild/stepchildren) from the declaration, **marking a step backwards and a change contrary to international best practices.**

Transparency International Georgia urges the Parliament of Georgia to refrain from passing this legislative package. We call on the Parliament to instead prepare amendments aiming with the requirements of the Venice Commission and the European Commission, aiming to prevent any obstacles in transitioning to the next phase of integration with the European Union.

¹ European Commission: Georgia 2023 Report, November 11, 2023, available [here](#); EU Commission: 2023 Communication on EU Enlargement Policy, November 11, 2023, available [here](#); Georgia: Opinion on the provisions of the Law on the fight against Corruption concerning the Anti-Corruption Bureau, adopted by the Venice Commission at its 137th Plenary Session (Venice, 15-16 December 2023), available [here](#); Georgia - Final Opinion on the draft law on de-oligarchization, adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), available [here](#).