Anti-Corruption Agencies

International Experience and Reform Options for Georgia

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Executive Summary

International Practice

Anti-corruption institutions operate in many countries throughout the world today although their structure and powers vary. The most common roles of anti-corruption institutions include:

- Coordination of anti-corruption policy (usually, by preparing anti-corruption strategies and action plans and monitoring their implementation)
- Analysis of legislation and drafting of amendments
- Analysis of the practice of public institutions and preparation of recommendations
- Monitoring of asset declarations of public officials and prevention of conflict of interest
- Monitoring of public procurement and privatization
- Monitoring of political party financing
- International cooperation
- Investigation of corruption cases (in some countries, criminal prosecution too)
- Education and awareness-raising on corruption

Depending on which roles are performed by a given institution, three main types of anti-corruption agencies can be identified:

1. Corruption prevention agencies
2. Law-enforcement institutions
3. Multifunctional anti-corruption agencies whose mandate covers both prevention and law-enforcement activities

The main prerequisites for a successful work of an anti-corruption agency are:

- Independence (which implies maximum level of protection for the agency and its leadership from undue influence by the country's political leadership)
- Appropriate resources (both in terms of adequate funding and sufficiently large staff with proper qualification)
- Accountability (to prevent abuse of power by the agency)
Current State of Affairs in Georgia

Since 2004, Georgia has achieved notable progress in terms of combating corruption and, as a result, the problem of petty corruption and bribery in the country has been essentially solved. At the same time, threats related to more complex forms of corruption continue to exist in Georgia. These are linked, among other things, to public officials' involvement in business activities, public procurement and privatization as well as political party financing.

The provisions of Georgia's anti-corruption legislation, which regulate these and other issues, are often violated in practice due to the weakness or absence of institutions responsible for ensuring their enforcement.

The mandate of the current Anti-Corruption Council is limited to general coordination of anti-corruption policy, although the Council's work in 2008-2014 indicates that it does not even perform this role adequately, most likely due to a lack of resources.

Of the areas where legislative provisions that are not being properly fulfilled in practice, the following have to be noted:

- Asset declarations of public officials
- Conflict of interest regulations

This makes it clear that the institutional framework of Georgia's anti-corruption policy needs to be reformed.

Reform Options

Considering international practices and the situation in Georgia today, three possible options of reforming the anti-corruption institution can be identified:

1. Strengthening the existing Anti-Corruption Council.
2. Establishing an independent anti-corruption agency that will be tasked with the prevention of corruption.
3. Establishing an independent anti-corruption agency that will be tasked with both the prevention of corruption and investigation of the cases of corruption.
An institutional vacuum in the Georgian anti-corruption system exists first and foremost with regard to corruption prevention (since several institutions are already carrying out an investigative function). Therefore, at this stage, the second model seems to be most appropriate. It is possible to grant investigative powers to the anti-corruption agency in the long run, at least in the cases involving high-ranking officials.

Recommendations

- An independent corruption prevention agency must be established that would have the following roles:
  - Coordinating the government's anti-corruption policy
  - Preparing anti-corruption strategy and monitoring its implementation
  - Analyzing the legislation for corruption risks and drafting legislative amendments
  - Analyzing the work of public institutions for corruption risks and preparing recommendations
  - Verifying information provided in public officials' asset declarations
  - Monitoring adherence to the provisions regulating public officials' conflict of interest and their participation in entrepreneurial activities
  - Monitoring public procurement and privatization for corruption risks
  - Raising public awareness
  - Responding to reports provided by citizens and non-governmental organizations as well as media reports, imposing administrative sanctions and sending cases to law-enforcement agencies when criminal elements are present

- The rules for the establishment and operation of the agency and its powers should be determined by a corresponding law.
- The head of the agency should be appointed jointly by the government and parliament while the possibility of his or her early dismissal from the post should be restricted.
- The agency should receive guaranteed budget funding and be staffed with professionals with relevant qualifications.
- The agency should be accountable to parliament, submitting to it the reports about its activities regularly.
- At the next stage of reform, a possibility of granting the agency investigative powers should be considered.
Introduction

The commitment to create institutions tasked with combating and preventing corruption is envisaged by the United Nations Convention Against Corruption (UNCAC).

At the same time, the Convention does not give preference to any specific institutional model and the states that are party to the Convention have different anti-corruption institutions. In some countries, the role of combating and preventing corruption is shared by several institutions while others opt for the creation of specialized anti-corruption agencies and centralized management of anti-corruption policy.

In long-standing democracies, the role of preventing corruption is usually divided between different institutions. The idea of establishing a specialized anti-corruption institution gained popularity as a result of the success achieved by anti-corruption agencies of Singapore and Hong Kong in the second half of the 20th century. Since 1990s, specialized anti-corruption agencies were established in some countries of Eastern Europe and the former Soviet Union.

Several advantages of establishing a specialized anti-corruption institution can be highlighted:

**The advantage of specialization** - studying and combatting corruption is gradually becoming an independent field. Correspondingly, the volume of academic knowledge and practical experience that exist in this field is growing. Therefore, it may be rational to have a separate institution that would bring together people with relevant professional knowledge. Another advantage of specialization is that such institutions can focus on the problems of corruption, which is difficult for the agencies that have other responsibilities as well.

**The need for coordinating the planning and implementation of complex measures** - corruption prevention always implies joint efforts by numerous public institutions. It is desirable for such an effort to be carried out within the framework of a unified plan or strategy which, in turn, suggests the need for a central institution that will assume the leading role in the elaboration of such a plan and the coordination of its implementation.

**Inability of existing institutions to effectively combat corruption** - this problem is particularly acute in young states where the existing institutions (for example, law-enforcement bodies) are often incapable of combating corruption and, sometimes, are part of the problem of corruption themselves.

Obviously, simply creating an anti-corruption agency is not enough in order for positive changes to occur. The existence of such an institution is meaningful only if it is given adequate powers

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1 United Nations Convention Against Corruption, Article 6
and resources. Some prerequisites for an anti-corruption agency's success are discussed in Chapter 3.

Since there is no single, universally accepted model of anti-corruption agency, it is necessary to consider various models that operate successfully in different countries and to choose the best option for Georgia based on the problems prevailing in the country and the capabilities of the current public sector.

In the following chapters, the main types and functions of anti-corruption agencies, preconditions for their successful operation and possible options of reforming Georgia's anti-corruption institution will be discussed.
1. Possible Roles of anti-corruption Agency

Anti-corruption agencies operating in various countries perform many different roles although these roles can be divided into three main categories: 1) prevention of corruption; 2) investigation of corruption; 3) education and public awareness raising.

1.1 Prevention of Corruption

This broad category involves various kinds of activities that aim to minimize the risks of corruption by means of improving the legislation and practice and eliminating gaps.

Coordination of anti-corruption policy: Since anti-corruption policy entails complex measures and, in any state, many institutions are involved in its implementation, anti-corruption agencies are usually tasked with coordinating the activities of these institutions and elaborating a unified policy framework. Such coordination often implies elaboration of an anti-corruption strategy and action plan and monitoring their implementation.

Analyzing the legislation and drafting amendments: Some anti-corruption agencies are constantly analyzing the legislation in search for the "loopholes" that entail the risks of corruption. These agencies draft legislative amendments that are aimed at preventing corruption in corresponding spheres. In addition, an agency can be tasked with analyzing a draft law prepared by other agencies in different spheres in terms of corruption risks.

Analyzing the practice of public institutions and preparing recommendations: One of the possible roles of an anti-corruption agency is monitoring and analyzing the work of public institutions to assess how well their internal anti-corruption mechanisms are functioning. This can also imply the assessment of the work of the internal control mechanisms. Once an anti-corruption agency discovers a problem, it provides public institutions with recommendations on how to tackle it.

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Preventing conflict of interest and monitoring asset declarations: Some anti-corruption institutions collect public officials' asset declarations and verify the information they contain. Through this and other measures, these institutions try to prevent and detect the instances of conflict of interest in public service.

Monitoring public procurement and privatization: Since the risk of corruption is especially high in the fields of public procurement and privatization, some anti-corruption agencies are mandated with monitoring these processes as well.

Monitoring political party financing: Party financing (especially campaign donations) is one of the possible sources of political corruption. Some anti-corruption agencies are tasked with checking financial reports submitted by parties in order to determine their conformity with the law and have the power of imposing sanctions for non-compliance.

International cooperation: There are many global and regional anti-corruption conventions in place today and states that are party to them have undertaken a number of commitments to improve their anti-corruption legislation and practice. One of the possible tasks of an anti-corruption agency is to ensure that these commitments are fulfilled and to submit reports on their fulfillment to the relevant international organizations.

1.2 Investigation of Corruption

The mandate of some anti-corruption agencies allows for investigating the possible instances of corruption, although agencies in different countries have different investigative powers.

Responding to citizens' complaints: An investigative mandate of an anti-corruption agency can be limited to receiving and verifying citizens' complaints and reports concerning instances of corruption. In this model, if an anti-corruption agency does uncover the signs of corruption, the case is sent to the law-enforcement bodies for further investigation.

Preliminary investigation: In some countries, anti-corruption agencies have the power to conduct a full-fledged investigation which essentially makes it a law-enforcement institution. Such agencies have professional investigators on their staff.

Carrying out criminal prosecution: Some anti-corruption agencies combine the investigative powers with those of carrying out criminal prosecution. Such agencies have both investigators and prosecutors on their staff.
1.3 Education and Public Awareness Raising

The simplest form of raising public awareness is posting the materials about corruption and anti-corruption policy (legislative provisions, policy documents, plans and strategies, research papers) on the Internet. An anti-corruption agency should have a high-quality website where citizens would be able to easily locate the information they need.

Successful anti-corruption agencies also carry out various information campaigns and educational programs targeting different groups of citizens. For example:

- Programs for school students (Lithuania, Latvia, Slovenia)
- Seminars for public officials (Lithuania, Latvia, Slovenia, Austria)
2. Types of Anti-Corruption Institutions

There are many different models of anti-corruption institutions in the world. They can be divided into three main categories based on which of the roles discussed in the previous section is covered by their mandate.

2.1 Corruption Prevention Institutions

Since corruption prevention implies many different functions, this category can be divided into two additional subcategories:

Institutions coordinating anti-corruption policies, whose powers are limited to providing a unified framework for the activities of various public institutions with regard to combating corruption. These institutions are usually tasked with monitoring the implementation of the national anti-corruption strategy or action plan and with communication with relevant international institutions. The anti-corruption Council operating in Georgia today falls into this category.

Institutions with a broad preventive mandate, whose powers and duties include, along with the general coordination of anti-corruption policies, improvement of legislation, monitoring of political party financing and public officials' asset declarations, and so on.

The prevention-focused institutions operate in France, Slovenia, Serbia and Macedonia.

2.2 Law-Enforcement Institutions

The institutions of this kind often operate as part of a law-enforcement institution (for example, prosecutor's office, police, financial monitoring service) but there are also independent law-enforcement institutions that focus specifically on corruption-related crimes.

This kind of agencies operate in Spain, Romania, Azerbaijan, Croatia, Norway and Britain.

3 OECD Anti-Corruption Network for Eastern Europe and Central Asia, Specialised Anti-Corruption Institutions: Review of Models, 31-38; European Partners against Corruption Anti-Corruption Working Group, Common Standards and Best Practice for Anti-Corruption Agencies, 10
2.3 Multifunctional Institutions

Multifunctional institutions combine the functions of the two previous categories and their activities involve diverse tasks dealing with corruption prevention as well as the investigation of specific corruption cases and (in some instances) criminal prosecution.

Multifunctional anti-corruption agencies operate in Hong Kong, Singapore, Latvia, Lithuania and Poland.
3. Prerequisites for Institutional Success

Despite the existence of a multitude of various models of anti-corruption agencies, several main conditions required for successful operation of an agency can be identified.

According to the UN Convention against Corruption, corruption prevention institutions should enjoy a proper degree of independence and be protected from undue interference in their work. The Convention also emphasizes the need for providing these institutions with adequate resources and employees equipped with special knowledge.\(^4\) Another important element of the institutional arrangement is accountability.

3.1 Independence

An anti-corruption agency's independence comprises several key elements:

**Agency's legal basis:** The legal basis for the establishment and operation of an anti-corruption agency can be a constitutional provision, a special law, a provision in a general law or a by-law (for example, a president's decree or a government's resolution). The degree of an agency's independence is higher if its establishment is stipulated by the Constitution or a special law.

The law based on which an anti-corruption agency is established should define the agency's scope of duties and powers; its relations with other institutions and rules of procedure regarding accountability; clear rules for appointing and dismissing the agency's chief; the rules for approving the agency's budget.\(^5\)

**Institutional placement:** When considering an anti-corruption agency's independence, its place in the system of a country's governance is important. Several main models can be identified here:

1. An independent institution subordinated directly to the head of state or parliament
2. An independent institution within the system of the executive branch
3. A sub-agency within the executive branch

\(^4\) UNCAC, Article 6
\(^5\) United Nations Development Programme, *Methodology for Assessing the Capacities of Anti-Corruption Agencies to Perform Preventive Functions*, 16
Obviously, the first model implies the greatest degree of independence. Independence of this level is desirable for multifunctional anti-corruption agencies which investigate concrete instances of corruption along with corruption prevention. Placing such an institution outside the executive branch decreases a country's political leadership's influence on its work. Such independence is also expedient for agencies whose tasks include monitoring political party financing and verifying asset declarations of public officials.⁶

If an anti-corruption agency's mandate is limited to the coordination of anti-corruption policy, it can be placed within the executive branch as an independent institution or a sub-agency.

The rules for appointing and dismissing the head: The procedure of appointing and dismissing the head of an anti-corruption agency is important for its independence. A relatively high degree of independence is ensured by a process which simultaneously involves several branches of power (for example, selection of the head of an anti-corruption agency by parliament after nomination by president or government). It is also important to rule out a possibility of an individual political office holder personally dismissing the head of an anti-corruption agency.

Since the independence of an anti-corruption agency implies, first and foremost, its depoliticizing, one of the possible ways to ensure it is to appoint such an agency's head for a period covering two parliamentary terms (which will diminish the influence of elections and change in government on the agency's work).⁷

Guaranteed funding: The broader an anti-corruption agency's mandate, the more important it is to ensure its financial independence. If an agency's duties involve activities that could cause confrontation with the country's political leadership (for example, investigation of corruption cases or monitoring political party financing), the latter could use a threat of reducing or cutting off the funding to put pressure on the agency. It is therefore expedient for the agency to have adequate funding guaranteed by the law, making sure that the country's political leadership's discretion in this regard is restricted.⁸

⁸ United Nations Development Programme, Methodology for Assessing the Capacities of Anti-Corruption Agencies to Perform Preventive Functions, 16; OECD Anti-Corruption Network for Eastern Europe and Central Asia, Specialised Anti-Corruption Institutions: Review of Models, 26
3.2 Resources

It is important for an anti-corruption institution to have adequate funding. The institutions whose duties are limited to general coordination of anti-corruption policy, can work successfully with a relatively small budget too. At the same time, multifunctional anti-corruption agencies, whose mandate involves prevention and investigation, require a lot more funding.

The same holds true for the number of an agency staffers. In addition, the qualification and professional skills of its employees are important. The broader the anti-corruption agency's mandate, the more people of various professions it will need. Multifunctional anti-corruption agencies usually employ lawyers, economists, auditors, investigators and even prosecutors (if criminal prosecution is within an agency's mandate).\(^9\)

3.3 Accountability and Transparency

Along with independence, ensuring an agency's accountability is also important. The more powers an agency has, the stronger the mechanism of its accountability should be.

Two main elements of an anti-corruption agency's accountability can be identified:

Accountability to the government which involves the obligation to submit regular reports to the government, president or parliament.

Accountability to the public ensured through regular publicizing of the information about the agency's work.

Anti-corruption agencies with law-enforcement duties should be subject to court supervision while in case of multifunctional anti-corruption agencies it is possible to create an external supervising committee composed of the representatives of various institutions and the civil society.\(^10\)

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4. The anti-corruption Institution of Georgia

Georgia's Interagency Coordination Council for Combating Corruption (hereinafter referred to as "Anti-Corruption Council") was established by presidential decree on 26 December 2008.\(^\text{11}\) The same decree approved the Council's charter which defines its structure, tasks and powers. The presidential decree was replaced on 30 December 2013 by the Georgian Government decree on approving the Council composition and charter although the Council's responsibilities and powers remained essentially unchanged. The main change concerned the transfer of the power of appointing the Council from the president to the government.\(^\text{12}\)

Furthermore, since June 2010, a special provision in the Law "On the Incompatibility of Interests and Corruption in Public Service" is the legal basis of the Council's existence.

The Council is made up of the representatives of the state's main institutions and agencies, as well as those of nongovernmental and international organizations and business associations, and is required to meet at least twice a year. The main responsibilities of the Council include:

- Defining anti-corruption policy
- Preparing and updating the anti-corruption strategy and action plan and monitoring their implementation
- Coordinating the work of various institutions in the process of implementation of the anti-corruption strategy and action plan
- Ensuring compliance with the recommendations of international organizations\(^\text{13}\)

The Council does not have an independent organizational structure and staff. The Analytical Department of the Justice Ministry functions as its secretariat. Furthermore, the Council itself is led by the minister of justice.

4.1 Institutional Indicators: Independence

The Georgian anti-corruption Council was not, from the outset, designed as an institution with high degree of independence and this is reflected in its structure. The Council practically

\(^{11}\) The Georgian president's decree On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption, Tbilisi, 26 December 2008

\(^{12}\) The Georgian Government's decree On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption, Tbilisi, 30 December 2013

\(^{13}\) The Georgian Government's decree On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption, Tbilisi, 30 December 2013, Article 3
functions within one of the ministries of the executive branch while a large part of its work is
done by one of the structural units of this ministry (the Analytical Department). It is also worth
noting that the Council's structure, functions and powers are established through a by-law
rather than a dedicated law.

On the one hand, this kind of approach can be considered justified given the Council's limited
tasks (the anti-corruption institution would have needed a much higher degree of
independence had its functions included, for example, investigation of corruption cases or at
least the implementation of corruption prevention measures on a larger scale). On the other
hand, even when the Council's only task involves general coordination of anti-corruption policy,
it is desirable to have the law stipulate the procedure of its interaction with other institutions
involved in this policy in more detail.

4.2 Institutional Indicators: Resources

When talking about the anti-corruption Council's resources, first and foremost, it should be
noted that the Council does not have an independent organizational structure. Correspondingly, it does not have its own budget or independent staff.

The Council's work is funded from the Justice Ministry's budget, although the resources for this
work do not appear as a separate item in the allocation received by the ministry from the state
budget and it is therefore difficult to determine the exact amount spent on the operation of the
Council.

As mentioned earlier, the tasks of the Council's secretariat are carried out by the Analytical
Department of the Justice Ministry. According to the Justice Ministry's website, 16 people are
currently working in the department.14 It is noteworthy that the department and its staff have
other duties apart from the coordination of the anti-corruption policy.15

To determine whether the existing human resources are adequate to ensure efficient work of
the Council, it is logical to discuss whether the Council has been able to fulfill the tasks imposed
on it by the law and its charter from the moment of its founding until today.

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14 The Georgian Ministry of Justice, Analytical Department, Structure:
http://www.justice.gov.ge/Ministry/Index/217
15 The Georgian Ministry of Justice, Analytical Department, Charter:
http://www.justice.gov.ge/Ministry/Department/270
One of the main duties of the Council is the elaboration of the anti-corruption Strategy and the Action Plan and the monitoring of their implementation. The current Strategy and the Action Plan were approved in 2010. The Strategy and especially the Action Plan contain a significant number of shortcomings. Specifically, the Action Plan is essentially a compilation of reforms planned by the government in various spheres in the course of that period, and there is an impression that the document is not based on a specific analysis of the situation with regard to corruption. Moreover, the goals and activities listed in the Action Plan are very general and there is no exact timeframe given for their implementation. Also, a number of quantitative indicators do not have corresponding target numbers.¹⁶

Significant problems can be identified with regard to the monitoring of the Action Plan’s implementation. The implementation reports published by the Council in 2010 and 2011 are essentially a compilation of information provided by various institutions and do not contain independent situation analysis conducted by the Council. As a result, successes achieved by a given institution in the reporting period are listed in the report but there is no mentioning about the measures that were envisaged by the Action Plan but were never implemented. If a measure envisaged by the Plan is not carried out within the defined timeframe, the report must discuss the reasons for such failure and the ways of resolving the problem.

It should be noted that the 2012 Action Plan implementation report has not been published by the Council to this day.

After the change of the government, the Council acknowledged the flaws of the Action Plan and, in early 2013, started working on the new Action Plan which is to cover the period of 2014-2016. However, as of December 2014, the new Action Plan has not been approved.

The Council’s work with regard to cooperation with international organizations can be assessed positively. The Council prepares reports about the implementation of commitments undertaken within the framework of the UN Convention against Corruption and other international anti-corruption mechanisms and submits them to relevant international organizations.

Overall, the problems related to the preparation of the anti-corruption Action Plan and monitoring its implementation suggest that the Council’s current organizational resources are insufficient even for performing its current tasks effectively.

4.3 Institutional Indicators: Transparency and Accountability

According to the decree adopted in December 2013, the anti-corruption Council is accountable to the Georgian Government and is to submit to it annual reports about the completed work.\(^{17}\) The previous resolution did not envisage such an obligation and, correspondingly, the Council will submit its first report by the end of 2014.

In terms of transparency and accountability, it is important that the Council's charter provides for the participation of representatives of non-governmental organizations in its work (whose number increased in 2013).\(^{18}\) In practice, the secretariat's increased interest in cooperation with the civil sector should be noted.

At the same time, the Council's and its secretariat's communication with the broader public needs to be refined in order to ensure better level of awareness raising about the anti-corruption policy. In this regard, it is expedient to create a special website that will be devoted to the government's anti-corruption policy and where all important documents prepared in this field (the anti-corruption Strategy and Action Plan, reports on the implementation of the Action Plan, Georgia's international commitments and their implementation reports, research conducted in the field of corruption and so on) will be posted.

\(^{17}\) The Georgian Government's decree *On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption*, Tbilisi, 30 December 2013, Article 5

\(^{18}\) The Georgian Government's decree *On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption*, Tbilisi, 30 December 2013, Article 2
5. Why We Need a Strong anti-corruption Institution

Local and international organizations researching corruption mostly agree that Georgia has made great progress in terms of combating petty corruption and bribery, virtually eradicating these forms of corruption. In the opinion polls conducted in Georgia, the number of respondents who have had to pay a bribe in exchange for public service is minimal.¹⁹

At the same time, there are a number of serious signs (including research conducted by various organizations) that more complex forms of corruption remain a significant problem in the country and cannot be prevented properly by the existing anti-corruption system. Public procurement, privatization, political party financing and public officials' links to private business are among the spheres where there is high risk of corruption in Georgia today.

Naturally, the prevention of corruption in all these spheres requires complex analysis and reforms implemented with the participation of various public institutions. Taking this into account, it would be rational to establish a specialized anti-corruption institution that would coordinate the work of public institutions in the field of corruption prevention, play a leading role in planning reforms and supervise their implementation. It is noteworthy that the existing Anti-Corruption Council's mandate is partially of this kind but (as the experience of recent years demonstrates) it is not equipped with adequate organizational resources.

In 2011, Transparency International Georgia published its Georgan National Integrity System Assessment. One of the findings of the study highlighted significant discrepancies between the anti-corruption legislation and the practice in Georgia, the reason being the gaps or a complete absence of mechanisms for the implementation of a large number of regulations.

Several areas can be identified where existing regulations are not being enforced due to the weakness of an institution tasked with implementing them or nonexistence thereof:

1. Verifying asset declarations: Currently, the information provided by officials in their asset declarations is not being verified in Georgia. As a result, in recent years, there have been many cases when officials concealed their links with private companies. Due to the flaws of the regulatory system, such instances remain ignored.²⁰

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¹⁹ See, for example the 2013 Global Corruption Barometer results: http://www.transparency.org/gcb2013/country/?country=georgia
²⁰ See, for example: http://transparency.ge/blog/parlamentis-tsevrebis-aradeklarirebuli-sametsarmeoir-interesebi
2. Provisions regulating conflict of interest and the participation of public officials and civil servants in entrepreneurial activities: Georgian legislation (including the Law “On Public Service” and the Law “On Conflict of Interest and Corruption in Public Service”) contains a number of provisions that aim to prevent private commercial interests from influencing public institutions. However, it is not clear which institutions are responsible for monitoring the enforcement of these provisions. As a result, as practice demonstrates, public officials violate these provisions without any repercussions.\textsuperscript{21}

3. Systemic analysis of corruption problems and planning of a unified anti-corruption policy based on this analysis: The establishment of the anti-corruption Council in December 2008 and the approval of the anti-corruption Strategy and Action Plan in 2010 represented an attempt to do this. However, given the experience of the past four years, it is hard to call this attempt successful. Between 2011 and 2014, no report on the fulfillment of the existing Action Plan was published and no new Action Plan was adopted.

It is noteworthy that the last report of the Anti-Corruption Network of the Organization for Economic Cooperation and Development (OECD) on Georgia underscores the shortcomings of Georgia’s existing anti-corruption framework and recommends that the government consider various options of reforms in order to strengthen the anti-corruption Council and its secretariat.\textsuperscript{22}

\textsuperscript{21} See, for example: http://transparency.ge/post/report/akhali-kvleva-mtavrobasa-da-bizness-shoris-tanamdebobis-pirta-modzaoba

\textsuperscript{22} OECD Anti-Corruption Network for Eastern Europe and Central Asia, \textit{Istanbul Anti-Corruption Action Plan, Third Round of Monitoring, Georgia, Monitoring Report}, 2013, 26
6. Reform Options for Georgia

As there is no single, universally recognized model of an anti-corruption body, what needs to be considered is which of the existing main models would be most efficient for Georgia. This discussion, in turn, should be based on the analysis of the corruption problems and challenges facing the country. At the same time, there is a broad range of possibilities when it comes to adapting each of the three models to the needs of the country based on the local situation.

Naturally, the mandate of an anti-corruption institution should, in any case, include corruption prevention. This could imply a relatively narrow focus (preparation of an anti-corruption strategy and coordination of its implementation) or a broader range of powers (analyzing the legislation and practice of public institutions for corruption risks, conducting research, monitoring the implementation of anti-corruption provisions and so on).

An anti-corruption institution’s function with regard to raising public awareness about corruption and anti-corruption policy is also hardly a disputable issue. The existing anti-corruption Council has this function but the agency has not been particularly active in this regard in recent years.

The issue that remains disputable is whether the Georgian anti-corruption institution should have investigative role and powers. Georgia's experience in recent years, as well as examples from some of the post-Soviet or post-Communist countries, provides reasons to believe that endowing an anti-corruption institution with certain (if only limited) investigative powers would facilitate an increase in the general effectiveness of anti-corruption policy.

It is clear that the complex forms of corruption which still remain a problem in Georgia are mainly linked to the activities of high-ranking officials. The experience of past years demonstrates that the law-enforcement agencies (the Prosecutor's Office and the Internal Affairs Ministry) are unable to effectively investigate possible violations committed by high-ranking officeholders and respond to such cases only after these officials leave office or when a ruling party changes altogether. The likely reason is that a depoliticized public service system independent from the ruling political power has not yet been established in Georgia.

We believe that there are several possible options for reforming Georgia's anti-corruption Council:

1) Keeping the existing model while strengthening the Council's organizational structure and enhancing its possibilities: In this case, the anti-corruption Council would remain an interagency coordination body whose main function would be corruption prevention through the
improvement of legislation and practice. In order to perform this role more effectively, the Council will need to have an independent staff (secretariat) equipped with adequate human and financial resources (unlike the current situation when the secretariat's role is performed by the Justice Ministry's Analytical Department in addition to its own regular function). Among the changes that can be carried out within the existing model, introduction of the Council's accountability to parliament (for example, by submitting annual reports) is noteworthy.

2) Creation of an independent anti-corruption institution without an investigative function: In this case, the institution's role would still entail corruption prevention (through refining legislation and practice) although the agency would be a full-fledged independent institution with corresponding organizational resources. One of the options in case of this model is granting an anti-corruption agency the power of monitoring the implementation of anti-corruption provisions in public service (for example, by verifying asset declarations submitted by public officials).

3) Independent multifunctional anti-corruption institution with (full or restricted) investigative powers: In this model, along with corruption prevention, the responsibilities of the anti-corruption agency would also include investigation of corruption cases.

Among these options, the first one is the easiest to implement as it does not require any significant systemic or institutional changes and can be limited solely to the creation of independent staff for the Anti-Corruption Council. This is the absolute minimum of reforms that needs to be carried out in this area in order to address the current shortcomings in terms of general coordination of anti-corruption policy. However, in this case, the problem of institutional gaps in some areas (for example, in the area of monitoring the implementation of anti-corruption provisions) will remain unresolved.

The third option implies a large-scale systemic reform. Therefore, in the short run, its implementation is less realistic, although it can be used as a model for the long-term development of Georgia’s anti-corruption institution. If an independent multifunction anti-corruption agency is established it could be tasked, at least initially, with investigating cases involving public officials (rather than the broader category of civil servants).

At this stage, the second option is the optimal choice for Georgia: The establishment of an independent corruption prevention agency (without a law-enforcement role). This agency would retain the responsibility of coordinating anti-corruption policy, which the Anti-Corruption Council already has today, but, structurally, it would be better equipped to fulfill this function. At the same time, the agency would have a duty to monitor the legislation and public institutions’ work in order to identify corruption risks, and would draft legislative amendments
and prepare recommendations to reduce these risks. Furthermore, the agency should have the power to monitor the implementation of anti-corruption provisions (for example, the provisions regulating the submission of asset declarations and public officials' connections with business) and to impose administrative sanctions on those violating these rules. The agency's mandate could provide for inquiries conducted upon appeals made by citizens and nongovernmental organizations or on the basis of information disseminated by the media, as well as for transferring the case to the law-enforcement bodies (in case there are signs of a criminal offence).

It is important to create safeguards for the agency's independence. One of the ways to do it is to provide a joint appointment of the agency's head by the government and parliament (the president's participation in the process is also possible) and to restrict the possibility of his or her early dismissal. It is also desirable for the agency to be accountable to parliament, regularly submitting to to the legislature reports about its work.

The establishment of such an agency will make it possible to fill the gap that exists in Georgia's anti-corruption system today and to achieve further progress in combatting corruption.