

## **The Negative Impact of Corruption on the Enjoyment of Human Rights**

### **Questionnaire**

- 1. How do you deal with corruption in your country? Do you have a policy to combat corruption (specific fields and specific categories)?**
- 2. a) Is there an anti-corruption agency in your country? If so, does it address the negative impacts of corruption on human rights in its work? Can you cite some examples to this effect?**

The Anti-Corruption Reform of Georgia is led by the Anti-Corruption Council (ACC). The ACC was originally created in 2008 by a presidential decree; in July 2010 provisions on the ACC were introduced in the Law on Conflict of Interest and Corruption in Public Service (Article 12(1)). Functions of the ACC include co-ordination of anti-corruption activities, elaboration and revision of the Anti-Corruption Strategy and Action Plan, supervision of their implementation, monitoring implementation of recommendations of the international organizations.

The ACC consists of representatives from government agencies, non-governmental organisations, international partners and business sector. It is chaired by the Minister of Justice of Georgia. Worth noting is that during past three years the number of governmental agencies, NGOs and international organisations has increased in the composition of the ACC. In 2012 and then in January 2013 the membership of the ACC was expanded to increase representation of civil society organisations (9 new organisations included), international agencies (4 new agencies) and to include business representatives (1 local and 2 international) for the first time. Currently there are 38 members, of which 17 are high-level governmental representatives, 2 members are from the Parliament and 1 from the judiciary; 18 observers represent local and international NGOs, international organisations, donors and business associations.<sup>1</sup>

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<sup>1</sup> The Council originally had 18 members (14 representatives of different state institutions and 4 representatives of the civil society). Its composition was later increased to 23 members as several government and CSO representatives were added.

Analytical Department of the Ministry of Justice of Georgia serves as a Secretariat for the ACC providing analytical and organizational support to the ACC. It is in charge of assisting the ACC in developing anti-corruption policy documents, coordinating inter-agency efforts, supervising the implementation of the Action Plan, communicating with NGOs, international organisations and general public, representing Georgia internationally.

In 2010, based on existing research and extensive consultations held with representatives of civil society and representatives of all governmental institutions the ACC has elaborated a new Anti-Corruption Strategy and Anti-Corruption Action Plan of 2010-2013, both documents were adopted by the Decree of the President of Georgia.<sup>2</sup> The ACC is responsible to prepare reports on the implementation of the Action Plan twice a year - for the first 6 months of that year and for the entire previous year and submit them to the President and Government.

After the parliamentary elections of October, 2012 the new Government expressed its strong commitment to continue the reforming process in a consultative and participatory format and initiate a new wave of anti-corruption reforms, revise the Anti-Corruption Strategy and elaborate Action Plan (2014-2016) with the assistance of the expanded ACC, the Secretariat and new nine thematic Working Groups that were created by the ACC in July, 2013. Therefore, fight against corruption remains high on the political agenda of the Government of Georgia, whereas directions of future anti-corruption reforms as well as new ambitious and comprehensive initiatives of the Government will be enshrined in the new Anti-Corruption Action Plan (2014-2016).

**2. b) Are there national human rights institutions in your country? If so, are they mandated to deal with corruption?**

The Public Defender's Office of Georgia (PDO) is entrusted with a mandate to promote and protect human rights and freedoms on the territory of Georgia. The competence of the PDO is determined by the Organic Law on Public Defender of Georgia. According to

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<sup>2</sup> Action Plan was adopted by the Decree N735 of September 14, 2010; Strategy was adopted by Decree N376 of June 3, 2010.

the Organic Law, the PDO is authorized to submit proposals, comments or recommendations on legislation of Georgia or draft laws to the Parliament or any other relevant body with the aim to ensure protection of human rights and freedoms as well as to prepare Parliamentary and Special Reports on situation of human rights and freedoms. The Reports of the Public Defender include not only information about the state and local self-government bodies that were found to have violated human rights and freedoms, but also indicate the state agencies that failed to implement the PDO recommendations. The Report is thoroughly analyzed, discussed and taken into account by the Parliament and relevant state institutions while developing specific areas of public policy and legislation. The Parliamentary Reports are submitted to the Parliament twice a year, whereas Special Reports address violations of specific human rights. Therefore, in case any civil, political, economic, cultural or other rights are violated by the state agencies as a result of corruption-related activities, the PDO is mandated to react thereto and submit recommendations to the related state agency.

**2. c) Do your anti-corruption agency and national human rights institutions cooperate in tackling corruption? If so, what mechanisms exist to promote cooperation between the respective institutions?**

As indicated above the ACC is an inter-agency cooperation mechanism with the primary goal to elaborate anti-corruption policy and co-ordinate its effective implementation. Several local NGOs presenting within the ACC such as Georgian Young Lawyers' Association, Transparency International Georgia and Institute for Development of Freedom of Information also work in human rights area and therefore their research, analysis or expertise from human rights perspective is of significant importance for the ACC and its work.

Analytical Department of the Ministry of Justice of Georgia also serves as a Secretariat of the Criminal Justice Reform Inter-Agency Council (ICC) and the Public Defender's Office is a member of the ICC. The representatives of the PDO are also members of all Working Groups created under the ICC and take an active part in the process of revision of strategies as well as legislation prepared by the Working Groups. In that

respect, when drafting and amending corruption-related articles of the Criminal Code of Georgia, the representatives of PDO are involved in discussions with other government agencies and NGOs.

- 3. Which measures have been adopted in your country that take into account the negative impact of corruption on enjoyment of human rights? What are the best practices and what are the challenges in this respect?**
- 4. In your country what are the human rights that are most effected by corruption? What specific negative impact can corruption have on the enjoyment of human rights by vulnerable groups such as women, children, elderly, persons with disabilities, indigenous people and others?**

The anti-corruption policies and measures are determined jointly by the responsible agencies influenced by the voice of civil society, business and international partners involved. For the last eight years through the strong political will and effective cooperation among the institutions concerned, the significant progress was achieved by the Government of Georgia to create a robust system for fight against corruption and elaborate effective preventive strategies in various fields representing a safe haven for corruption-related activities.

There is no direct link or reference to the human rights in the Anti-Corruption Strategy and Action Plan. Without doubt the phenomena of corruption can affect nearly every aspect of life and have considerable negative impact on the enjoyment of any civil, political, economic, social or cultural rights. Therefore, focusing on the six major areas in particular, efficient and corruption-free public sector; competitive and corruption-free private sector; improvement of justice administration; improvement of anti-corruption legislation; prevention of corruption and improved system of political party financing; and prevention of political corruption the Anti-Corruption Strategy and Action Plan ensure establishment of corruption-free environment, increasing transparency and openness of the Government, as well as eradication of this phenomena in almost all areas of Georgians' daily life.

5. **What measures can be taken by the Human Rights Council and its subsidiary bodies or by States to combat corruption with specific consideration regarding the negative impact of corruption on enjoyment of human rights?**
6. **How can the United Nation human rights mechanisms be utilized for anti-corruption efforts? What other institutional mechanisms could be used to integrate human-rights based approach in combating corruption or vice-versa at both, the international and national level?**
7. **Are there any other observations or suggestions you wish to provide regarding the topic?**

Currently, the Ministry of Justice of Georgia is working on the elaboration of the National Human Rights Strategy and Action Plan in order to systematise and further institutionalize protection and fulfilment of human rights. This Strategy and its Action Plan will ensure proper identification of human rights priorities and determine activities of various government agencies. Therefore, after elaboration of the Strategy and Action Plan it will be much easier to identify the needs and possible mechanism for integration of human-rights based approach in combating corruption.