Draft

On the Amendment to the Law of Georgia on Fight against Corruption

Article 1. The following amendment shall be made to the Law of Georgia on Fight against Corruption (Parliamentary Gazette №44, 11.11.1997, registration code: 010.320.050.05.001.000.268):

1. Article 2:

a) The subparagraphs “I”, “j^1”, “k^1”, “k^2”, “l^1”, l^2, “m”, “r”, “s”, “x”, “z^3” of paragraph 1 shall be formulated as follows:

“i) The head of a primary structural unit of the Administration of the Government of Georgia, his/her deputy, and a person equivalent to him/her as well as the head of a secondary structural unit and persons equivalent to him/her;**”**

“j^1) The Head of the Staff of the Parliament of Georgia, his/her deputy, the head of a primary structural unit and persons equivalent to him/her as well as the head of a secondary structural unit and persons equivalent to him/her;**”**

“k^1) Heads and deputies of government subordinated institutions of the Autonomous Republic of Abkhazia and the Autonomous Republic of Adjara;**”**

“k^2) Heads of legal entities under public law (except for those established for cultural, educational, academic, research, sports and religious activities, and political parties) and their deputies as well as the head of a structural unit and persons equivalent to him/her;**”**

“l^1) The Head of the State Security Service of Georgia and his/her deputies, heads and their deputies of structural units of the State Security Service of Georgia, main divisions and divisions within these structural units, as well as persons equivalent to them. Investigator (except intern-investigator) of the Anti-Corruption Agency (Department) of the State Security Service of Georgia;**”**

“l^2) The Head of the Office of the National Security Council and his/her deputy, the head of a structural subunit of the Office of the National Security Council and his/her deputy as well as the head of division;**”**

“m) The Head and deputy of the tax authority/customs authority of the Legal Entity under Public Law – the Revenue Service;**”**

“r) Members of the national regulatory commission of Georgia, heads of subunits of the Office of commission and persons equivalent to them;**”**

“s) Chairperson of the Central Election Commission of Georgia, his/her deputy and the secretary of the Commission, Chairperson of the District Election Commission, his/her deputy and the secretary of the Commission, including heads of the Supreme Election Commissions of the Autonomous Republics of Abkhazia and Adjara;**”**

"x) The Prosecutors (except intern-prosecutors) defined by the 1^1 and 1^2 paragraphs of Article 2 of the Organic Law of Georgia on the Prosecutor's Office, the Heads of the Departments of the Prosecutor's Office of Georgia who are exempted from the provisions outlined in the 1 paragraph of the Article 2 of the Organic Law of Georgia on the Prosecutor's Office, investigators (except intern-investigators) of the Division of the Criminal Prosecution of Corruption Crimes;"

"z^3) The Director of the Legal Entity under Public Law – the Pension Agency, his/her deputy, and a senior investment officer."

B) The subparagraphs "h^2", "h^3", "j^4", and "m^1" of the following content shall be added to paragraph 1:

"h^2) Heads of structural units of Ministries of the Autonomous Republics of Abkhazia and Adjara and persons equivalent to them;"

"h^3) Heads of the Offices of Governments of the Autonomous Republics of Abkhazia and Adjara and their deputies, Heads of primary structural units of the Offices of Governments of the Autonomous Republics of Abkhazia and Adjara, their deputies and persons equivalent to them;"

"j^4) Heads of the offices of the supreme representative body of the Autonomous Republics of Abkhazia and Adjara, their deputies, heads of primary structural units and persons equivalent to them, heads of secondary units and persons equivalent to them;"

"m^1) The head and deputy head of the Customs Department of the Legal Entity under Public Law – the Revenue Service, the head and deputy head of the division, the head of the department, and the head of the Customs Laboratory of the Customs Department; the head and deputy head of the Economic Clearance Zone of the Customs Department, the head and deputy head of division; the head of the Customs Clearance Department of the Customs Department; heads and deputy heads of customs checkpoints of the Customs Department;"

C) The "c" subparagraph of paragraph 2 shall be formulated as follows:

"c) Heads and deputies of enterprises, where the State including Autonomous Republics Abkhazia and Adjara or municipality/municipalities owns 100% of stocks or share, as well as the heads and deputies of subsidiaries of such enterprises;"

1. **The subparagraph 4 of Article 2 shall be formulated as follows:**

"a) "Family member" is a person's spouse, child, stepchild, or a person permanently residing with him/her;"

2. **The paragraphs "5^3", "5^4" and "14" of the following content shall be added to Article 14:**

"5^3. The board members of the enterprises' defined by the C subparagraph of paragraph 2 of Article 2 as well as the subsidiaries of these enterprises shall submit a simplified form of the asset declaration determined by the Government of Georgia."

"5^4. A member of the municipal assembly who does not hold an official position in the assembly shall submit a simplified form of the asset declaration determined by the Government of Georgia."

„5^5. Advisor to state-political officials and politically appointed officials shall submit a simplified form of the asset declaration determined by the Government of Georgia.“

„14. A public official is obligated to make changes in the asset declaration in order to adjust inaccuracies in the asset declaration found by the Bureau during the monitoring of the asset declarations, within one month of receiving notification from the Bureau regarding the final monitoring results.“

3. **The paragraphs “c”, “d”, “e”, “I”, “j”, “k”, “l”, and “m” of Article 15 shall be formulated as follows:**

“The official's asset declaration shall contain the following information about the person, his/her family members, and close relatives:”

“c) The person’s as well as his/her family members and close relatives’ name, surname, identification number, place of birth, date of birth, kinship or other relation with the person.”

“d) Immovable property owned by the person and his/her family members (in Georgia and abroad), the identity of the owner (as well as the co-owner of the property and the percentage of the share of the person and his/her family member if the property is in shared ownership), the date (day, month, year) of purchase, the form of purchase, the amount paid, total area, location of the property and cadastral code;”

“e) Movable property owned by the person and his/her family members (except for securities, funds in a bank account/deposit, any type of cryptocurrency and cash), each property valued at more than GEL 10 000, the identity of the owner (as well as the co-owner of the property and the percentage of the share of the person and his/her family member if the property is in shared ownership), the date of purchase (day, month, year), the form of purchase and the amount paid;”

“i) Direct participation or indirect participation of the person or his/her family members in business activities in Georgia or another country, including information about beneficial ownership. In the case of direct participation in the activities of an enterprise: the person participating in the activities of the enterprise, the form of participation, first and last names of partners (for a legal person – the full company name, identification number, and legal address), the full company name, identification number and legal address of the enterprise, registration body, and registration date, equity percent, the period of participation, and the amount of income gained from the enterprise during the accounting year (excluding the taxes under the legislation of Georgia). In case of indirect participation in the activities of an enterprise: the full company name of another enterprise, identification number, the type of activity, and first and last names of partners (for a legal person – the full company name, identification number, and legal address), equity percent of the enterprise in the capital of another enterprise;”

“j) Any paid work performed by the person or his/her family members in Georgia or another country, except for participating in entrepreneurial activities – the identity of the person performing paid work, place of work (for a legal person – the full company name, identification code and legal address) where the person holds/held a position or performs/performed paid work, name of the position or type of work, income received from the performance of work within a reporting period (excluding the income tax). Additionally, the dates (day, month, year) of both the start and end of employment or work tenure;”

“k) Any agreement concluded by the person or his/her family members in Georgia or another country (except for a gift received), valued at more than GEL 10 000 (including trust agreements, irrespective of their value) – the type of the agreement, the identity of the parties to the agreement (for a legal person – the full company name, identification code and legal address), subject and value of the agreement, the date (day, month, year) of entering into the agreement and its duration, the body that performed state registration and attestation of the agreement, the material benefit received from the agreement within the reporting period (excluding the taxes under the legislation of Georgia);”

“l) Any gift valued at more than GEL 500, that the person or his/her family members received within the reporting period – the identity of the person receiving the gift, the person presenting the gift (name, last name, date of birth (day, month, year); for a legal person – the full company name, identification number and legal address), the relationship between them, type of the gift, market value of the gift and the date (day, month, year) of receiving the gift;”

“m) Any uniform income of the person and his/her family members within a reporting period, the amount (value) of which is exceeding GEL 3 000 in each case, and/or uniform expenses the amount (value) of which is exceeding GEL 5 000 in each case, except for other income and/or expenses specified in this article – the person and his/her family members who had income and/or expenses (for a legal person – the full company name, identification number, and legal address), the type and amount (value) of income and/or expenses;”

4. **The paragraph “f^1” and “j^1” of the following content shall be added to Article 15:**

“f^1) Any type of cryptocurrency owned by the person and his/her family members, the name and surname of the owner, the type of cryptocurrency, the date (day, month, year) of purchase, the form of purchase, the amount paid, the nominal value and quantity;”

“j^1) Any unpaid work performed by the person or his/her family members in Georgia or another country, the identity (name, last name, date of birth) of a person performing the work, place of work (for a legal person – the full company name, identification number and legal address) where the person holds/held a position or performs/performed paid work, name of the position or type of work. Additionally, the dates (day, month, year) of both the start and end of employment or work tenure;”

5. **The paragraph 1 and subparagraph “d” of paragraph 2 of Article 18 shall be formulated as follows:**

“1. The Bureau shall ensure the receipt of official’s asset declarations, the public availability of property conditions of relevant officials and open data access, the control over the submission of declarations according to the legislation of Georgia. The Bureau shall also perform other functions provided for by the legislation of Georgia.”

“d) Ensure the public availability of the content of official’s asset declarations and open data access to them;”

In Article 18^1:

a) subparagraphs “a” and “b” of paragraph 2 shall be formulated as follows:

“a) A risk-based automatic selection of asset declarations of public officials by the unified electronic system, which is determined in accordance with the Decree of the Government of Georgia on the Approval of the Instruction on the Monitoring of Asset Declarations of Officials to be Verified;”

“b) A reasoned written application, including an anonymous one;”

a) Paragraphs 6 and 13 shall be formulated as follows:

“6. The Head of the Bureau shall determine the composition of the Independent Commission under paragraph 3 of this article. The Independent Commission shall not be composed of public servants. The Independent Commission created under an order of the Head of the Bureau shall consist of 5 members, 3 of whom shall be representatives of non-governmental organizations, while 2 of them shall be representatives of the academia and/or journalists working on the corruption;”

“13. If incomplete or incorrect data are entered into an official’s asset declaration as provided for by paragraph b of paragraph 11 of this article, and if there are signs of an offense, the Bureau shall submit the respective declaration and materials of the proceedings to the relevant law enforcement body for further actions.”

6. Subparagraph “c” with the following content shall be added to paragraph 2 of Article 18^1:

„c) information reported in the media;“

7. Paragraphs “6^1”, “7^1”, and “7^2” with the following content shall be added to Article 18^1:

“6^1. In the case of failure to create the Independent Commission defined by paragraph 3 of this article, the Bureau shall ensure further selection of 5% of the total number of public officials pursuant to a subparagraph of paragraph 2 of Article 18^1;”

“7^1. The report on the results of the monitoring of asset declarations of public officials proactively published by the Bureau (and/or its annex) shall include a detailed description of violations and information on the declaration (a public official) submitted to a law enforcement body, as well as the comprehensive description of identified cases of conflict of interest and incompatibility of duties including an indication of a public official and an exact form of a violation;”

“7^2. Pursuant to the Law of Georgia on Fight against Corruption of Georgia, the Bureau shall ensure the public availability of an individual administrative act – the order on imposing a fine issued by the head of the Bureau;”

8. Subparagraphs “a” and “c” of paragraph 13^1 of Article 18^1 shall be repealed.

9. Subparagraph “c” of paragraph 13^2 of Article 18^1 shall be repealed.

10. Paragraph “1” of Article 19 shall be formulated as follows:

“1. Any person may request, receive, and familiarize themselves with a copy of an official’s asset declaration, except for the personal number, permanent address, and telephone number indicated in this declaration and the secret field of the declaration, as well as a declaration of an official at secret positions in accordance with the Law of Georgia on State Secrets, except for officials of the Anti-Corruption Agency (Department) of the State Security Service of Georgia;”

11. Paragraph “1^1” of Article 20 shall be formulated as follows:

“11. In the case provided for by subparagraph b of paragraph 11 of Article 18^1, an official shall be fined in the amount of 20% of his/her salary, but not less than GEL 500, and a person who has been dismissed shall be fined in the amount of 20% of the last official salary received during the holding of office, but not less than GEL 500, for which an individual administrative act – a decree – shall be issued. If, in the case provided for by subparagraph b of paragraph 11 of Article 18^1, an official is fined for a second time within three years, the official will not be entitled to promotion, an increase in official salary, and receipt of a monetary reward for the duration of one calendar year.”

Article 2.

The Government of Georgia shall adopt the relevant amendments to the respective by-laws.

Article 3. This Law shall take effect upon promulgation.

President of Georgia **Salome Zurabishvili**

Explanatory Note

On the Amendment to the Law of Georgia on Fight Against Corruption

A) General information about the draft Law on Fight Against Corruption

A.A) The reason for adopting the draft Law on Fight Against Corruption

A.A.A) The problem that the draft Law on Fight Against Corruption aims to solve:

Although the current law defines the rules for submitting asset declarations, the list of officials who are obligated to declare their assets, the content as well as the rules of monitoring submitted declarations, the practice demonstrates that the declaration monitoring system in Georgia has failed to become a powerful instrument of fighting against corruption and conflict of interest.[1]

[1] The Georgian Asset Declaration System is in Need of an Update, Transparency International Georgia, September 29, 2020, available here; Evaluation of Enforcement of the Law on Conflict of Interest and Corruption in Public Institutions (2016-2020), Transparency International Georgia, December 7, 2021, available here.

In 2021 and 2022, the analysis of the LEPL Civil Service Bureau's Reports[2] on the Results of Asset Declarations Monitoring shows[3] that every other public official in Georgia submits the declaration with violations.

The latest report of the OECD Anti-Corruption Network for Eastern Europe and Central Asia (OECD/ACN) shows all principal challenges that the system of asset declarations in Georgia has, including the scope and content of asset declarations, subjects of the declaration system, and the monitoring process.

- **Public officials covered within the asset declaration system**

Primarily, it is crucial to broaden the list of public officials obligated to submit asset declarations.[4] Under the current legislation, the definition of a public official is broad. However, individuals in positions that pose a high risk of conflict of interest, potential corruption, or abuse of power are exempt from the requirement to submit a declaration.[5] According to the existing law, the obligation to submit a declaration does not apply to the anti-corruption investigators, nor to advisors of state-political and political officials. For example, advisors of the Prime Minister and other members of the government, the President, the state representative, and the mayor of the municipality.

The obligation to submit a declaration applies[6] to advisors of state-political and political officials, for example, in Ireland, Bosnia-Herzegovina, and Latvia. For instance, in Latvia[7], the obligation extends to advisors to the President, advisors, consultants, and assistants, and also heads of the offices of the Prime Minister, Deputy Prime Minister, Ministers, and Ministers for Special Assignments. In the United Kingdom, the assistants and research assistants of members of Parliament, and members of their staff[8] are required to submit a declaration. As for anti-corruption investigators, a similar practice is in force in, for example, Latvia and Lithuania, and it is also defined by the OECD/ACN indicators.[9]

It is important to highlight that under the existing legislation, the obligation to file a declaration is limited to the directors of enterprises where the State or municipality/municipalities hold 100%

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[2] 2021 Report on the Results of Asset Declarations Monitoring, Civil Service Bureau, December 31, 2021, available here; 2022 Report on the Results of Asset Declarations Monitoring, Civil Service Bureau, December 31, 2022, available here.

[3] Monitoring of 2020 Asset Declarations: Worsened Results and Lack of Focus on Uncovering Corruption Transparency International Georgia, March 22, 2021, available here; Half of Public Officials in Georgia Submit Asset Declarations with violations of the law, Transparency International Georgia, March 16, 2022, available here; Every other public official in Georgia submits asset declaration with violations, Transparency International Georgia, March 24, 2023, available here.

[4] OECD (2022), Anti-Corruption Reforms in Georgia: Pilot 5th Round of Monitoring Under the OECD Istanbul Anti-Corruption Action Plan, available here; Evaluation of Enforcement of the Law on Conflict of Interest and Corruption in Public Institutions (2016-2020), Transparency International Georgia, December 7, 2021, available here.

[5] OECD (2016), Anti-corruption reforms in Georgia, 4th round of monitoring of the Istanbul Anti-Corruption Action Plan, available here; OECD (2022), Anti-Corruption Reforms in Georgia: Pilot 5th Round of Monitoring Under the OECD Istanbul Anti-Corruption Action Plan, available here.

[6] OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing, available here.

[7] Latvia: Law "On Prevention of Conflict of Interest in Activities of Public Officials", Section 4, Clause 1, Point 5, available here.

[8] OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing, available here.

[9] OECD (2023), Istanbul Anti-Corruption Action Plan, 5th Round of Monitoring: Guide, available here.

ownership, along with the directors of their subsidiaries. Furthermore, the obligation to submit a declaration applies only to the director and not, for example, to his/her deputy and/or to the member of the management. Under the current legislation, it is notable that individuals holding managerial roles in state enterprises are exempted from the requirement to submit asset declarations. Furthermore, in many countries, including Lithuania, Latvia, and Portugal, the threshold for state ownership is set at 50% or more, and it extends to board members and other governing bodies who must fulfill the asset declaration obligation. Spain, for instance, adopts an even broader approach in this regard.

In addition, members of the municipal assembly who do not hold an official position are not required to submit the declaration, including its simplified form. For example, in Latvia, all members of the local self-government assembly submit a declaration.

- **The scope and content of asset declaration submitted by a public official**

According to the OECD, corrupt officials often hide their assets under the names of their relatives, their spouses, and other individuals. Therefore, it should be possible to monitor the wealth not only of a public official but of close relatives and family members.[10]

Over the past few years, most of the violations discovered as a result of monitoring asset declarations submitted by public officials in Georgia are related to non-indication or/and an incorrect indication of information related to family members.[11] For example, according to the Report on the Results of Asset Declarations Monitoring 2022, in 78% of the declarations wherein violations were found, the data of family members had been indicated incorrectly.[12] It is alarming that the number of violations related to declaring data on family member(s) has been increasing every year since 2019. Whereas in 2019 this type of violation could be found in 63% of the negatively assessed declarations, in 2022 this figure increased to 78%.[13]

Furthermore, local non-governmental organizations and investigative journalists have uncovered several alleged cases of corruption violations, including instances of undeclared property and business interests registered under the names of officials' family members and close relatives.[14] There are often suspicious cases when officials’ family members and close relatives own real estate and participate in business activities without public knowledge. According to current legislation, public officials are no longer required to include information in their declarations about adult children and stepchildren, as well as parents, siblings, and other close relatives who do not permanently reside with them.

Considering the national context, it is crucial that the declarant is obligated to indicate close relatives, adult children including stepchildren, and financially independent ones. For instance, in Latvia, a public official is required to indicate his/her spouse, parents, siblings (including half-brothers and half-sisters),

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[10] OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing, p. 14, available here.
[11] Reports on the Results of Asset Declarations Monitoring, LEPL Civil Service Bureau
[12] Every other public official in Georgia submits asset declaration with violations, Transparency International Georgia, March 24, 2023, available here.
[13] Ibid
[14] Alleged Cases of the High-Level Corruption — A Periodically Updated List, Transparency International Georgia, last updated: 24.04.2023, available here.

and children.[15] In Lithuania, the requirement is even broader: close persons or other persons he/she knows who may be the cause of a conflict of interest in the opinion of the person concerned.[16] According to international practice, there are some instances when the requirement for indicating close relatives is merely for identifying their identities, without declaring their property and business interests.

It is noteworthy that per OECD the scope of information covered by the declaration form has to be broad enough to allow detection of both conflict of interest and illicit enrichment, including all types of income with their sources, financial obligations, and expenditures. The declaration also has to include disclosure of information on beneficial ownership in companies, trusts, and assets.[17] According to the World Bank's 2020 report, conflict of interest disclosure and asset declaration systems should include new forms of money laundering and corruption.[18] It is essential that the declaration system is able to detect beneficial ownership related to public servants and persons connected with them. The current legislation does not require a declarant to disclose information on beneficial ownership. The law requirements regarding cryptocurrency are also vague. Although several declarants indicated the type and amount of cryptocurrencies in the securities section, the law does not explicitly have the obligation to declare cryptocurrencies.

Another shortcoming is related to the issue of public access to information about the paid and unpaid activities performed by the office prior to the first appointment to the position and after leaving the position. The publicity of this type of information constitutes international best practices. Furthermore, the restrictions on the publicity of this information limit the possibility for representatives of civil society and investigative journalists to detect and expose one type of conflict of interest and corruption - the "revolving door" cases.[19]

Another malpractice is related to the change introduced in 2019, wherein it is no longer deemed a violation if an official fails to disclose the ownership of a company that has not generated any turnover in the past six years. This practice presents a significant challenge as it greatly hampers the ability of civil society organizations, the media, and concerned citizens to effectively monitor the business affiliations of officials because they lack the ability to verify whether a company has operated in the past 6 years. The information whether a company has been active or not is publicly unavailable as it constitutes Tax secrecy and only relevant agencies have access to it. The change severely undermines the transparency of officials' business activities, directly contradicting the goals and spirit of Georgia's current legislation and its international anti-corruption commitments. Furthermore, this change renders it impossible for civil society to verify the outcomes of the monitoring carried out by the Civil Service Bureau, thereby hindering the assessment of its effectiveness.

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[15] Latvia: Law "On Prevention of Conflict of Interest in Activities of Public Officials", Section 24, Clause 1, Point 1, available here.

[16] Republic of Lithuania: Law on the Adjustment of Public and Private Interests in the Civil Service, Article 6, Clause 10, available here.

[17] OECD (2020), Anti-corruption Reforms in Eastern Europe and Central Asia Progress and Challenges 2016-2019, OECD Publishing, available here.

[18] Enhancing Government Effectiveness and Transparency: The Fight Against Corruption, World Bank, 2020, available here.

[19] Revolving door regulation continues to be nonexistent in Georgia Transparency International Georgia, June 5, 2021, available here.

Furthermore, certain entries in the official's declaration lack sufficient detail. For instance, when an official or his/her family members are involved in entrepreneurial activities, it is not required to specify the identification code of an enterprise or a company, and in the case of real estate - their cadastral codes.

- **Declaration monitoring**

The current system for monitoring declarations exhibits multiple flaws and requires substantial improvements.

Pursuant to current legislation, the ground for initiating the monitoring of an official's asset declaration might be a random selection of the officials by the Unified Electronic Officials' Asset Declaration System, a reasoned written application or/and the state-political officials selected by the Independent Commission and the officials selected on the basis of special factors. The basis for the initiation of monitoring by the Bureau cannot be an anonymous complaint. Moreover, the Bureau does not initiate monitoring declarations based on open-source data, including the information reported by the media about potential violations. According to the OECD, initiating declaration monitoring based on an anonymous complaint represents international best practice.

The risk-based verification approach is neglected which represents yet another shortcoming in the random selection of officials by the Unified Declaration Electronic System.[20] The electronic system fails to ensure risk categorization and selection of declarants considering their position or functions. According to the OECD, it is crucial to clearly define in the law specific positions/functions, which must be subject to monitoring. Certainly, this does not imply conducting declaration verifications for all high-ranking officials on every occasion. However, the law should establish the officials who need to undergo monitoring and prioritize officials who fall into the risk category. This type of instrument simplifies the verification process and makes the responsible agency more efficient and target oriented.[21]

Furthermore, in the case of failure to create the Independent Commission half of the number of officials established by the law are subject to annual examination (only 5% instead of 10% of the total number of officials). In this case, contrary to international good practice, state-political, political, and officials with a higher risk of corruption are being overlooked.

It is important to highlight that throughout the six-year period of declaration monitoring, the formation of the Independent Commission was only achieved twice in 2018 and 2022. One of the contributing factors to this limited formation is the flawed process of staffing the Commission. To minimize the likelihood of the Commission formation failures, it is crucial to broaden the pool of potential candidates for the Commission members. In particular, along with representatives of non-governmental organizations and academia, investigative journalists should also be able to participate in the selection. Due to the fact that representatives of the academia demonstrate limited engagement in the declaration monitoring process and show less interest in the Commission's activities, while investigative journalists increasingly devote attention to scrutinizing officials' declarations year after year, it is crucial to provide them with the opportunity to participate in the Commission's activities. Furthermore, the practice shows that violations are found in most of the declarations verified on the basis of a

[20] OECD (2022), Anti-Corruption Reforms in Georgia: Pilot 5th Round of Monitoring Under the Istanbul Anti-Corruption Action Plan, OECD Publishing, Paris, available here.

[21] OECD (2020), Anti-corruption Reforms in Eastern Europe and Central Asia Progress and Challenges 2016-2019, OECD Publishing, available here.

substantiated statement by the media and the non-governmental sector. For example, in 2022, the Bureau confirmed violations in 95% of the declarations verified based on substantiated statements by the media and non-governmental organizations.[22] This indicator clearly demonstrates that civil society organizations involved in monitoring declarations, as well as investigative journalists, can detect high-risk declarations with a high level of accuracy.

Moreover, in the case of failure to create the Independent Commission, only half of the number of officials (only 5% instead of 10% of the total number of officials) established by the law are subject to verification on the basis of random electronic selection by the Bureau. In the case of failure to create the Independent Commission, the Bureau shall ensure further selection of 5% of the total number of public officials to verify the full number of declarations (10%).

One of the most pressing problems is related to the issue of sending declarations to the investigative body in case of incomplete or incorrect information is indicated in them. During the six-year period of declaration monitoring, only 11 declarations in total have been submitted to the Prosecutor's Office, whereas a total of 2,268 declarations were verified and violations were found in 1,487 (65%) cases, from which 1,264 declarants were fined.[23] Furthermore, the list of alleged cases of incompatibility of duties, conflict of interest and corruption, including illicit enrichment, identified by local NGOs and investigative journalists keeps increasing year after year.[24]

The low number of cases sent to the Prosecutor's office suggests a lack of political will to detect instances of corruption. On the other hand, it may be related to the Bureau's discretionary determination of the nature of the violation (whether the incomplete submission of a declaration was intentional or not). For example, in the 2021 Bureau report, when describing the types of violations, we read that "44% of the negatively evaluated declarations had violations in the real estate section, where the property was missed out...". In the 2022 report, the Bureau still uses the term "missed out" in the violation category.[25] The law is vague and does not clearly indicate how the Bureau determines that the official simply "missed out" the real estate in the declaration and did not try to hide it. In 2022, for the first time, although the violations were detected in 52% of the declarations, not a single declaration was sent to the Prosecutor's Office.[26] As the data analysis shows, per Bureau's decision, not a single official submitted incomplete or incorrect information "deliberately", therefore none of the cases were sent to the Prosecutor's Office. In 136 cases, the Bureau imposed a fine (39% of the total number), and in 45 cases (13% of the total number) it issued a warning. The current practice suggests that the amendment is required to the law, which leaves the Bureau full discretionary power to determine an official's intent - whether he "deliberately" failed to provide the information or simply "missed it out".

Additionally, the report on the monitoring of declarations proactively published by the Bureau needs further improvement. It is necessary for the Bureau to provide the public with comprehensive information regarding the violations identified in the declarations, and not only indicate the category of

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[22] 2022 Report on the Results of Asset Declarations Monitoring, Civil Service Bureau, December 31, 2022, available here.
[23] Every other public official in Georgia submits asset declaration with violations, Transparency International Georgia, March 24, 2023, available here.
[24] Alleged Cases of the High-Level Corruption — A Periodically Updated List, Transparency International Georgia, last updated: 24.04.2023, available here
[25] 2022 Report on the Results of Asset Declarations Monitoring, Civil Service Bureau, p.4 December 31, 2022, available here.
[26] Ibid.

violation. Another significant shortcoming is that there is no information available about the extent of the detected violation. The Bureau's report fails to provide specific details regarding the quantity and value of the real estate (for example, a country house, a garage or an attic, one property or several, etc.) that officials have omitted in their declarations. Another flaw in the report is that there is no information about the declaration (of the official) sent to the law enforcement body. In addition, the Bureau does not publish detailed information on each identified case of conflict of interest, detailing the official and the violation.

Furthermore, the issue of the reliability of publicly published declarations remains a significant challenge. As the monitoring results show, at least half[27] of the officials do not fully indicate the information in their declarations required by the law, and after the verification, the officials have no obligation to correct the detected violations. Consequently, declarations available on declaration.gov.ge (despite verification and imposed fines by the Bureau) may still contain incomplete/incorrect data. Additionally, the electronic platform does not allow the user to see whether the mentioned declaration has undergone monitoring and/or has been subject to a fine.

The issue that declarations of the officials of the Anti-Corruption Agency (Department) of the State Security Service of Georgia are not publicly available is problematic. The law mandates officials to complete and submit declarations; however, it does not enforce the requirement for these declarations to be made public. The confidentiality of the officials of the Anti-corruption Agency of the SSSG contradicts the very tasks of the Agency itself, which are to fight against official misconduct, corruption and investigate criminal cases, and implement measures to prevent, detect and eliminate corruption. According to international best practice, declarations of officials of anti-corruption agencies are public. This is related not only to high-ranking officials but to anti-corruption investigators as well.

When discussing the existing challenges, it is crucial to highlight that the significant number of violations underscores the insufficiency of the imposed sanction (fine), as a deterrent for officials to refrain from submitting their declarations with violations. For example, according to the Venice Commission, the requirement to disclose assets and revenues should be associated with a sanction that is serious enough to serve the purpose of deterrence [corruption].[28] In Georgia, there are cases when, despite being fined, an official repeatedly provides incorrect/incomplete information in the declaration.

A.A.B) The necessity of adopting a law to solve the existing problem:

The issues mentioned in subparagraph "A.A.A", based on its purpose and essence, require the implementation of legislative amendments.

A.B) Possible outcome of the draft law

Adoption of the amendments provided by the draft law and their implementation in practice will enhance the transparency and accountability of officials.

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[27] Every other public official in Georgia submits asset declaration with violations, Transparency International Georgia, March 24, 2023, available here. Half of Public Officials in Georgia Submit Asset Declarations with violations of the law, Transparency International Georgia, March 16, 2022, available here;

[28] Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of the Former Yugoslav Republic of Macedonia, Adopted by the Venice Commission at its 105th Plenary Session, Venice, December 18-19, 2015.

It will also contribute to the introduction of integrity standards in public institutions, including the detection and prevention of cases of conflict of interest and incompatibility of duties, corruption, and tightening of appropriate measures in case of violations.

The draft law serves to further improve the monitoring system of asset declarations in Georgia, it will eliminate the shortcomings identified by the Civil Service Bureau as a result of the 6-year monitoring results and the analysis of existing practices.

The scope and content of the declaration and the circle of officials will be extended. Additionally, the existing regulations for the selection and initiation of monitoring of declarations and the establishment of an independent commission will be improved.

A.C) The primary concept of the draft law:

The proposed legislative changes aim to enhance the system of asset declarations in multiple aspects:

- **The list of public officials with the obligation to submit declarations is expanding**

In light of the presented amendments, the requirement to submit a declaration will be expanded to encompass individuals holding positions that carry an elevated risk of conflict of interest, and/or potential corruption, as well as abuse of power. This extension will include advisors to state-political and political officials, including advisors to the Prime Minister, other government members, the president, the state representative, and the municipality mayor.

Furthermore, aligning with the OECD/ACN recommendation, the requirement to submit declarations will be further extended to encompass anti-corruption investigators. As per the proposed changes, the obligation to submit a declaration will be applicable to investigators working within the Anti-corruption Agency (department) of the State Security Service of Georgia and the Investigation Unit of the Office of the Prosecutor General of Georgia (excluding trainee investigators).

The obligation to submit declarations will also apply to the director of enterprises in which the state (state body, the government of the autonomous republic, and/or municipality) owns 50 percent or more. Moreover, this obligation will not only apply to the director but also to their deputy and members of the governing body. Additionally, the head of subsidiary enterprises of the aforementioned enterprise will also be subject to this obligation. In the case of board members of state enterprises, they will be required to complete a simplified form as stipulated by the Government of Georgia. Similarly, members of the municipal assembly who do not hold an official position will also be obligated to complete and submit an asset declaration using a simplified form.

In addition to the aforementioned, the obligation to fill in and submit the asset declaration will also extend to the following officials.

- Deputy Head of the Customs Department of the LEPL State Revenue Service, Head of the Division of the Customs Department and his/her Deputy, Head of the Unit, Head of the Customs Laboratory; the head of the Customs Clearance Economic Zone and his deputy, the head of the division and his/her deputy; Head of the Clearance Unit of the Customs department; The head of the Customs checkpoint of the Customs department and his/her deputy.

- The head of the office of the supreme representative bodies of the autonomous republics of Abkhazia and Adjara, his deputy, as well as the head of the primary structural unit and a person equal to him, the head of the secondary structural unit and a person equivalent to him/her.

- The head of the government apparatus of the autonomous republics of Abkhazia and Adjara, his/her deputy, as well as the head of the primary structural unit of the government apparatus of the autonomous republics of Abkhazia and Adjara, his/her deputy, and a person equivalent to him/her.

- Heads of the structural units of the ministries of the autonomous republics of Abkhazia and Adjara and persons equivalent to him/her.

- Deputy Director of the LEPL Pension Agency.

- **The scope and content of the declaration is increasing**

The proposed legislative changes impose a responsibility upon public officials to include an adult and financially independent child in their asset declaration, providing information about the child's business activities, real estate holdings, and other relevant information. In the case of "close relatives," the public official is only required to disclose their identities, without the need to declare their income, expenses, real estate, business involvement, or other interests. Adopting and implementing the proposed changes outlined in the legislative proposal will enhance the quality of transparency and accountability among public officials. Furthermore, this measure will contribute to raising integrity standards within public institutions, facilitating the detection of conflicts of interest, incompatible duties, and instances of corruption.

Furthermore, taking into account the deficiencies and best practices highlighted in the 5th pilot monitoring report by OECD/ACN, it will be mandatory for public officials to disclose any ownership of cryptocurrencies they possess.

An additional significant modification pertains to the disclosure of "beneficial ownership" details. The matter of beneficial ownership holds utmost importance, especially when considering the involvement of companies registered in offshore jurisdictions in public procurement, where the identification of their ultimate proprietors remains unknown.

Furthermore, details regarding both paid and unpaid activities undertaken by the official prior to their initial appointment and after leaving the position will become publicly available.

Another modification entails the elimination of the legal exception that currently exempts the declaration of inactive companies for a period of six years and is not identified as a violation.

Furthermore, it is crucial to indicate the identification numbers of companies (legal entities), as well as the cadastral codes of real estate properties.

- **The regulations for monitoring asset declarations of public officials are improving**

The proposed legislative amendments enhance the monitoring of asset declarations of public officials in multiple aspects, encompassing the selection process for monitoring declarations, the establishment of the independent commission, and the disclosure of monitoring outcomes.

Asset declaration monitoring can additionally be triggered upon receipt of an anonymous report, and also based on the information published in the mass media.

Under the revised regulations, the electronic random selection of declarations for monitoring will adopt a risk-based approach. The Bureau will employ automated screening, categorizing declarants into risk categories based on their position or function, and subsequently selecting them. This methodology will enable the identification of declarations with a heightened likelihood of potential violations.

The proposed amendments pertain to the matter of staffing the independent commission responsible for the annual selection of declarations for monitoring. The objective is to mitigate the detrimental practice of failing to establish a commission over the course of multiple years. Specifically, the independent commission, established on the basis of the order of the head of the bureau, will comprise members from non-governmental organizations, academia, and/or journalists working on corruption issues (3 members from non-governmental organizations and 2 - representatives of the academia and/or journalists). Nevertheless, as per the amendments, if the commission cannot be formed, the bureau must guarantee the selection of 5% of all officials, thereby assessing the entirety (10%) of declarations mandated by the law throughout the year.

One of the significant changes concerns the requirement to submit the asset declaration to the investigative body when incomplete or inaccurate information is provided in the declaration. As per the proposed amendments, if incomplete or inaccurate information is submitted in a declaration, and indications of a potential crime are present, the bureau is obligated to forward the pertinent declaration and supporting materials to the relevant law enforcement agency for further investigation and necessary actions. Furthermore, as an additional measure, the monitoring report will encompass the disclosure of information regarding the aforementioned public official and the violation. Additionally, the report will provide a comprehensive account of each identified case of conflict of interest or incompatibility of duties. Moreover, in alignment with the commendable practice observed in Croatia,[29] the Bureau will be mandated to ensure the public disclosure of the individual administrative act pertaining to the imposition of fines on an official - – the order issued by the head of the Bureau in accordance with the Law of Georgia "On Fight Against Corruption".

Furthermore, it will be mandatory for the public official to correct any identified violations and make necessary adjustments to the asset declaration within one month of receiving notification from the Bureau regarding the final monitoring results. This particular change holds significant importance, particularly when taking into account that every other declaration submitted in the past two years has been found to contain inaccurate and incomplete information.

Another important change concerns the public disclosure of asset declarations. In particular, the declarations of the officials of the Anti-corruption Agency (department) of the State Security Service of Georgia will be made publicly accessible.

Other significant changes include:

- Stricter sanctions are imposed in cases of violations in the submitted asset declarations. Specifically, if an official incurs multiple fines within a span of three years, they will face a one-year restriction on promotions, salary increases, and monetary rewards.

[29] Povjerenstvo za odlučivanje o sukobu interesa, Akti Povjerenstva [Conflict of Interest Commission, Commission Acts].

- According to the proposed amendments, public officials will be obligated to correct any identified violations and make necessary adjustments to their asset declarations (within one month of receiving notification from the Bureau regarding the final monitoring results).

- The criteria for establishing minor violations are reduced. Notably, the inclusion of inaccurate real estate areas as an indication of a violation will no longer be relevant. This is because officials are automatically provided with accurate information regarding real estate registered under their names during the declaration filling process.

A.D) The relation of the draft law with the government program and the action plan in a relevant field, if any (in the case of the draft law is initiated by the Government of Georgia):

The draft law is not initiated by the Government of Georgia.

A.E) The idea of the selection of the date of entry into force of the draft law and the relevant reasoning in the case of granting retroactive effect to the law:

Since the implementation of the amendments in practice may require some preparatory work (for example, updating of the “Guideline for Submission and Monitoring of the Public Official’s Asset Declaration") January 1, 2024, is proposed as the date of entry into force of the draft law. The draft law does not provide for the retroactive effect of the law.

A.F) The reasons and respective justification for discussing the draft law in an accelerated manner (if the initiator requests discussion of the draft law in an accelerated manner)

The discussion of the draft law in an accelerated manner is not requested.

B) Assessment of the financial impact of the draft law in the medium term (the year of the draft law enters into force and the following 3 years):

B.A) The source of funding for necessary expenses related to the adoption of the draft law:

The adoption of the draft law does not require the allocation of additional expenses from the state budget of Georgia.

B.B) The impact of the draft law on the revenue part of the state or/and municipal budget:

Adoption of the draft law envisages the expansion of the list of officials defined in accordance with Article 2 of the Law of Georgia on the Fight against Corruption and consequently, the extension of the circle of persons submitting the asset declaration. Non-submission of the asset declaration by these officials or non-indication of information in accordance with the requirements of the law (a violation) is subject to a monetary fine. Accordingly, in the case of the above-mentioned prerequisites, it is possible to have an impact on the income part of the state budget.

B.C) The impact of the draft law on the expenditure part of the state, autonomous republics or/and municipal budget:

The adoption of the draft law does not affect the expenditure part of the budget.

B.D) New financial commitments of the State, indicating the direct financial liabilities (internal or foreign liabilities) to be assumed by the State or an entity within its system, based on the draft law:

The adoption of the draft law does not envisage the assumption of new financial commitments by the state.

B.E) Expected financial results of the draft law for those persons to whom the draft law applies, indicating the character and the line of the impact on the natural and legal persons that might be directly affected by the actions defined under the draft law:

Adoption of the draft law envisages the expansion of the list of officials defined in accordance with Article 2 of the Law of Georgia on the Fight against Corruption and consequently, the extension of the circle of persons submitting the asset declaration. Non-submission of the asset declaration by these officials or non-indication of information in accordance with the requirements of the law (a violation) is subject to a monetary fine.

B.F) The amount of a tax, duty or another fee (financial payment), as determined by the draft law, to an appropriate budget and the principle for determining the amount:

The draft law does not determine a tax, duty or another fee (financial payment).

B^1) The evaluation of the impact of the draft law on the legal status of a child:

The draft law does not affect the legal status of a child.

B^2) The evaluation of the impact of the draft law on gender equality:

The draft law does not affect gender equality.

C) The relation of the draft law with international legal standards:

C.A) The relation of the draft law with European Union (EU) legislation:

The draft law does not contradict European Union legislation.

C.B) The relation of the draft law with the obligations of Georgia for joining international organizations:

The adoption of the draft law will significantly contribute to fulfilling the obligations stipulated in the United Nations Convention Against Corruption (UNCAC).

Moreover, by enhancing the declarations monitoring system, which serves as a key anti-corruption mechanism, and aligning it with international standards, it will positively impact the implementation of the fourth recommendation established by the European Commission for granting EU candidate country status to Georgia.[30] The effective functioning of the asset declarations system is one of the key responsibilities of the newly established Anti-corruption Bureau, which was instituted within the framework of implementing the fourth recommendation.

[30] Opinion on the EU membership application by Georgia, European Commission, June 17, 2022, available here.

Furthermore, the improvement of the declarations monitoring system aligns with the objectives outlined in the EU-Georgia Association Agenda for the period of 2021-2027.[31]

Additionally, it serves as a means to implement the recommendations provided by the Anti-Corruption Network of the Organization for Economic Co-operation and Development (OECD/ACN).

C.C) The relation of the draft law with bilateral and multilateral agreements and treaties of Georgia, and if there is an agreement/treaty linked to drawing up the draft law, also an appropriate article and/or paragraph:

The adoption of the draft law will significantly contribute to fulfilling the obligations stipulated in the United Nations Convention Against Corruption (UNCAC) (especially obligations in Chapter 2).

C.D) An EU legal act, if any, the obligation of approximation to which is proceeding from 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 from other bilateral and multilateral agreements of Georgia concluded with the European Union:

It does not exist.

D) Consultations received in the preparation process of the draft law:

D.A) A state, non-state, and/or international organization/institution, expert, or working group, if any, that participated in the preparation of the draft law:

It does not exist. However, while working on the draft law, the recommendations, and assessments of the Fourth and Fifth Pilot Rounds of Monitoring of Georgia by the Anti-Corruption Network of the Organization for Economic Cooperation and Development (OECD/ACN) were used.

D.B) Evaluation of an organization/institution, working group, or an expert, if any, participating in the preparation of the draft law:

It does not exist.

D.C) Experience of other countries in the implementation of laws similar to the draft law; review of the experience that was used as an example when drawing up draft law, if such review was prepared:

It does not exist. However, while working on the draft law, the recommendations and assessments of the Anti-Corruption Network of the Organization for Economic Cooperation and Development (OECD/ACN) to Georgia were used.

E) The author of the draft law:

Non-entrepreneurial (Non-commercial) Legal Entity Transparency International Georgia

F) The initiator of the draft law:

[31] Recommendation No 1/2022 of the EU-Georgia Association Council of 16 August 2022 on the EU-Georgia Association Agenda 2021-2027 [2022/1422], p. 52, available here.