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## **Political Corruption Monitoring System in Georgia**

*Georgia treated combating corruption, a harmful socio-political phenomenon, as one of the top priorities of public policy and, sharing international experience, has defined the regulation of the legality of political finance as an important element of the anti-corruption strategy.*

*In 2011, material changes were introduced in the Organic Law of Georgia on Political Associations of Citizens. The reform offered a completely new political corruption monitoring system in the country. They established the Financial Monitoring Service of Political Parties within the State Audit Office of Georgia with the main task to control the legality and transparency of political finance. To that end, the Monitoring Service was assigned to monitor and ensure the transparency of the revenues and expenses of the political parties and also was given the power to apply administrative proceedings and sanctions.*

*Since 2022, this mandate, along with other anti-corruption duties, has been granted to a legal entity under public law – the Anti-Corruption Bureau, which is independent in its operations and reports only to the Parliament of Georgia and the Interagency Anti-Corruption Council.*

*We will try in this study, giving due consideration to the best international practices, to analyze the specifics of the agencies controlling political corruption and assess the outcomes of their operations in the scope of the mandate. We will discuss the problems that remain a challenge based on the legislation applicable today and are a bar to the process of developing a more effective and result-oriented anti-corruption system.*

**Keywords:** *political corruption, voter bribery, monitoring, transparency, donation, mandate, anti-corruption agency.*

### **1. Introduction**

Political corruption is a huge challenge for contemporary democracies. There is a universal consensus in this regard that the introduction of effective mechanisms for controlling the legality of the origin of the financing of political parties is an integral component of the development of democratic principles and the reinforcement of the rule of law. The transparency of political finances largely determines the legitimacy of the state political system and the public confidence therein.<sup>1</sup>

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<sup>1</sup> *Herbert E.A., Shiratori R. (eds), Comparative Political Finance Among the Democracies, Boulder, Colorado: Westview, 1994, 15.*

It is worth noting that the availability of effective mechanisms for monitoring the legality of political finance remains problematic for the contemporary world, especially when new and more difficult-to-control sources of finance emerge, such as, for example, the financing of political processes using cryptocurrencies. The problem is particularly acute in such young democracies as Georgia. Therefore, it is especially important to have effective legal regulations to enable the monitoring of the legality and transparency of political finance.

Political corruption, which jeopardizes the rule of law, human rights, and freedoms; hinders the country's economic progress; and prevents the stable development of democratic institutions, is still deemed one of the problematic areas affecting the country's development. Along with that, political corruption makes a negative impact on the country's political culture, creates a non-competitive political environment, and infringes on the community's legal right to fair elections, thereby contributing to public disappointment and loss of confidence in political associations.<sup>2</sup>

There is consensus in the democratic world that political corruption negatively impacts the formation of the will of voters and impugns the credibility of election results. The so-called black, uncontrolled money affects the political process, thus preventing the progressive development of the country and giving rise to community frustration.

It is of prime importance to analyze all potential corrupt political practices and develop more effective response mechanisms. The problem of so-called 'political charity' has been a challenge for decades and is now becoming increasingly topical, which has been given greater scope by allowing to make donations to legal entities thus bringing businesses closer to political interests. This constitutes grounds for the fact that large companies always donate considerable funds to the ruling political party, which, in addition to gaining favor from the government, is often driven by receiving financial benefits. This context becomes more apparent in the process of political finance monitoring when the large donors are found to be the companies that receive significant funding through public tenders or simplified public procurement.

In this context, political corruption is not just the direct distribution of money but the creation of privileged, preferential conditions for individual companies, which then transfer funds to the account of a particular political party. One of the main objectives of this study is to analyze the various facts of political corruption and develop recommendations for the establishment of effective mechanisms for combating such challenges.

## **2. What is Political Corruption?**

Corruption has many manifestations, though one of its most common forms is political corrupt practices, the fight against which is a serious challenge for the entire civilized world.

Political corruption is understood in various ways. In certain cases, it is used as a synonym for high-level corruption, which implies abuse of power by leaders, while sometimes it refers to corruption specifically in political and electoral processes.<sup>3</sup> The international anti-corruption orga-

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<sup>2</sup> State Audit Office of Georgia, 'Political Finance Monitoring Methodology', 2014, 3.

<sup>3</sup> *Amundsen I.*, Political Corruption, CMI (Chr. Micheslen Institute), U4 Anti Corruption Resource Centre, U4 Issue 2006:6, 5.

nization Transparency International defines political corruption as the abuse of entrusted power by political leaders for private gain.<sup>4</sup>

Based on the practice analysis, political corruption can be revealed in two forms. The first one involves acquisition and accumulation. This is when government officials abuse their power to gain benefits from the private sector, government revenues, and the economy in general. They try to use their current official status to the extent possible to accumulate property. And then reuse those resources to reinforce their position and maintain power.

The latter factor is another form of political corruption when the obtained resources, funds from the state budget, are used to maintain and expand power. The so-called mutual protection policy is formed, which implies the politically driven distribution of financial and material resources, advantages, and benefits. This is what creates privileged groups, a certain corrupt elite clan, who try to maintain and reinforce their power by bribing voters, illegitimately influencing the election process. 'Political corruption is a deviant political behavior manifested in the illegitimate use of public resources by the ruling political elite for the purpose of reinforcing or enriching their power.'<sup>5</sup>

A different form of political corruption is 'electoral corruption', affecting the will of the voters and the entire political process, during which the desired political team and government officials are elected by bribing voters and using uncontrolled funds to guarantee the acquisition and maintenance of public power. Obviously, this violates the healthy election process covering both the preparation process and the progress and summary of the elections.

'Electoral corruption is a system of bribing both voters and candidates, in the consequence of which both government and local authorities become a kind of expensive goods of the market economy, which can be purchased only by those having access to significant financial, material, informational and other resources.'<sup>6</sup>

Thus, obviously, corruption has many manifestations but all of them have one common feature posing a threat to the rule of law, democracy, and human rights, undermining justice and social equality, preventing healthy competition, hindering economic development, endangering democratic institutions, and moral values of a community. Therefore, the development of effective mechanisms and correct legal policies to combat all forms of corruption is of crucial importance for the progressive development of a country.

### **3. The First Organized System of Combating Political Corruption in Georgia**

Before 2011, there had been no agency or mechanism in Georgia to provide effective control of political finance. In 2011-2012, material changes were introduced to the new Election Code and the Organic Law on Political Associations of Citizens following the recommendations of the Office for

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<sup>4</sup> The Global Coalition Against Corruption – Transparency International, Global Corruption Report, Political Corruption, 2004, 11.

<sup>5</sup> *Shabalin V.A.*, Politics and Crime, State and Law, №4, 1994, 44.

<sup>6</sup> *Kabanov P.A.*, Political Corruption in Russia: Concept, Essence and Main Forms of Manifestation №10, 2002, 33.

Democratic Institutions and Human Rights (OSCE/ODIHR), the Venice Commission and the Group of States Against Corruption of the Council of Europe (GRECO).<sup>7</sup>

With the amendments of 28 December 2011 introduced to the Organic Law of Georgia on Political Associations of Citizens, they established the first organized and structurally formed agency for combating political corruption. This mandate was assigned to the Control Chamber of Georgia (now the State Audit Office).<sup>8</sup> The Political Parties' Financial Monitoring Service (hereinafter – the Monitoring Service) was established within the agency with the main task to control the legality and transparency of political finance in order to make it possible to eliminate all manifestations of political corruption and establish a healthy, competitive electoral environment; to prevent funding of the entire political system from one source, bribing people for political purposes and monopolizing politics. To accomplish this mission, the Monitoring Service, along with the monitoring duties, was also given the authority to apply sanctions.

Worth noting is that separate regulations were scattered in the legislation, although the law laid down in detail the rules of political finance and the mechanisms for controlling its legality. The assignment of this mandate to the State Audit Office gave rise to differences of opinion because, despite the institutional independence of the above agency, there occurred doubts regarding its political neutrality. However, it should be noted that the monitoring of political finance by a supreme audit institution is an approved international practice, and given the actual environment in Georgia, assigning this duty to an independent monitoring body was the most optimal decision at the time.

The State Audit Office developed extremely detailed electronic forms of profit and loss statements<sup>9</sup> following international accounting standards not to leave room for political corruption. Considering the principle of transparency, the official website of the State Audit Office has been publishing since 2012 absolutely all information about political finances and expenses, and about violations identified and sanctions applied.<sup>10</sup>

Legal entities were prohibited from donating to political parties. They established new donation limits extended to both financial and non-financial resources. A political entity accepting any kind of donation was now under an obligation of mandatory reporting to the controlling agency. The Political Parties' Financial Monitoring Service has been authorized to apply seizure along with substantial financial sanctions.

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<sup>7</sup> GRECO (Group of States Against Corruption) Evaluation Report on Georgia on Incriminations, Strasbourg, 2011, <https://rm.coe.int/16806ca044> [24.02.2023]; Venice Commission and OSCE/ODIHR – Joint Opinion on the Draft Election Code of Georgia, Strasbourg, 2011, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2011\)094-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2011)094-e), [24.02.2023].

<sup>8</sup> Organic Law on Political Associations of Citizens, The Parliament Gazette, 45, 21/11/1997, (Organic Law of Georgia dated 28 December 2011, No 5661).

<sup>9</sup> Order No 10/37 of 23 January 2012 of the Chairman of the Chamber of Control of Georgia 'on approval of financial statement forms of political associations of citizens and instructions for filling them out'.

<sup>10</sup> Website of the State Audit Office <<https://monitoring.sao.ge/ka>>, [15.02.23].

### **3.1. The Scope of the Mandate of the State Audit Office as an Agency Exercising Control over Political Corruption**

It is important to analyze the legal regulations drafted to combat political corruption, which, considering the best international practices, have been introduced into the Organic Law on Political Associations of Citizens since 2011. In the wake of complete oversight of revenues received and expenses incurred, the restrictions established by the law also extended to those who have declared their election goals and use the material and financial resources to achieve the goals.

Now the object of monitoring was a legal entity directly or indirectly associated with the political party, whose expenses were related to the activities and goals of the party. To prevent the risks of political corruption, the mandate of the Political Parties' Financial Monitoring Service also extended to organizations directly or indirectly related to political parties, which implied access to information on donors and monitoring of incurred expenses.<sup>11</sup>

As part of the anti-corruption reform, the scope of activity of the Monitoring Service established by law was broad, although the restrictions have changed over the years. At present, legal entities under the control of or directly or indirectly associated with a political party, remain outside monitoring. Accordingly, companies directly or indirectly associated with politically interested persons donate funds to a political entity without any problems, which creates additional risks in terms of political corruption and poses a threat of inequality in the electoral environment.

## **4. Mechanisms for Monitoring the Legality of Political Finance**

One of the important controls assigned to the Monitoring Service is the possibility of legal response to violations. Worth noting is that in the initial edition of the Organic Law of Georgia on Political Associations of Citizens, quite strict sanctions were imposed on offenders who were subject to monitoring. Sanctions included a fine of ten times the amount of the illegal donation. Since the changes to the law, the sanctions have significantly reduced and today include a fine of double the amount of the violation identified.<sup>12</sup> In this context, it is necessary to analyze the extent to which this type of sanction can serve as a deterrent and can prevent violations. However, it must be noted that imposing sanctions is not the ultimate goal of effective oversight of political activities. In all possible cases, the controlling bodies must especially focus on positive experiences in order to make the objects of monitoring interested in following the established rules and ensuring the transparency of the sources of funds and expenses.<sup>13</sup>

Implementation, acceptance, and concealment of prohibited financial and material donations to a political party became subject to sanctions. Non-fulfillment of the obligations under the law by a

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<sup>11</sup> Decision of 9 May 2012 of the State Audit Office, the Political Parties' Financial Monitoring Service, regarding the application of restrictions under Article 26<sup>1</sup> of the Organic Law of Georgia on Political Associations of Citizens to NNLE 'Movement A.L.'

<sup>12</sup> Organic Law on Political Associations of Citizens, The Parliament Gazette, 45, 21/11/1997, Article 342, (22.12.2022).

<sup>13</sup> *Ohman M.*, Funding of Political Parties and Election Campaigns, Introduction to Political Finance, Enforcement, 2014, 4.

political party also became punishable. With the same changes, the mandate of the Monitoring Service broadened to imply the response to accepting, granting, or promising illegal gifts, revenues, services, or providing services, by any person for the purpose of election, if the value of the property (service) or transaction is below GEL 100. However, with the amendments introduced to the Criminal Code of Georgia in 2020, the above actions were fully criminalized and any illegal activity carried out for election purposes, regardless of the amount, became punishable by the Criminal Code and was treated as voter bribery.<sup>14</sup>

Admittedly, the above changes that criminalize any act of bribing voters are undoubtedly positive but to assess to what extent the law has had a deterrent effect or guaranteed the prevention of violations, it is important to assess its effective use in practice. Unfortunately, despite the alleged facts of voter bribery in the public space at the parliamentary and local self-government elections held after the changes, the law instrument could not be efficiently used. For example, during the 2020 parliamentary elections, the non-governmental organization Fair Elections revealed 64 cases of alleged voter bribery from various political entities; however, the organization reported that the cases were not appropriately responded to. Most of the alleged facts of voter bribery were not investigated at all.<sup>15</sup> Worth noting is that investigations were initiated in individual cases under the applications of the monitoring organizations; however, they did not identify and prosecute specific guilty persons in the context of a preventive measure.

The purpose of voter bribery is to influence voters by granting benefits from private resources, which affects the election outcomes and undermines the interest of fair elections. Leaving those facts unaddressed negatively affects future elections, and instead of preventing violations, that may play an encouraging role.

#### **4.1. Specifics of the Main Violations Revealed within Monitoring**

The Monitoring Service has revealed a number of illegal political finance schemes. To prevent further violations, it was important to take effective response measures. There have occurred many facts of donations made by a person with a declared electoral goal in favor of a desired political entity through third parties including those registered in the unified database of socially vulnerable persons.<sup>16</sup>

Within the administrative proceedings, there have also been a number of facts established that the interested political subjects gave monetary funds to third parties, who, in exchange for personal interest, deposited the funds in the form of a donation to a specific political party's account through their own bank account.<sup>17</sup>

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<sup>14</sup> Criminal Law Code of Georgia, LHG, 41(48), 13/08/1999, (Law No 6726 of 20 June 2020).

<sup>15</sup> International Society for Fair Elections and Democracy, Final Report of 2020 Parliamentary Election Monitoring, 34, <<https://www.isfed.ge/geo/2020-saparlamto/2020-tslis-saparlamto-archevnebis-saboloo-angarishi>> [07.04.2021].

<sup>16</sup> Decision of 10 May 2012 of the Tbilisi City Court Board of Administrative Cases regarding the imposition of an administrative fine, case No 3/2211-12.

<sup>17</sup> Decision of 8 July 2012 of the Tbilisi City Court Board of Administrative Cases regarding the imposition of an administrative fine, case No 4/2766-12.

Under the existing conditions when legal entities were prohibited from donating to political parties, individuals interested in the election results made illegal donations by using staff members employed within their companies, circumventing the law. However, the Monitoring Service already had controls to study the financial standing of each donor. As part of the monitoring, there revealed cases when individuals donated the maximum amount allowed by law – GEL 60,000, which was equal to their salary for several years with no other confirmed source of income.<sup>18</sup>

Thus, obviously, Georgia has made the fight against political corruption one of the important areas of public policy, which is also reflected in the anti-corruption strategy and action plan developed by the Government, whereunder the establishment of an effective mechanism for monitoring political finance, promoting public control over political finance and ensuring political associations' accountability to the community, was set as a priority of the anti-corruption strategy.<sup>19</sup>

### **5. Funding of Electoral Entities by Legal Entities as a Source of Political Corruption**

As mentioned above, following the anti-corruption reform implemented in 2011, it was forbidden to receive donations from legal entities; however, soon thereafter, in 2013, legislative amendments were drafted that allowed legal entities to make donations. The total amount of donations received from each legal entity was set at GEL 120,000 per year.<sup>20</sup>

Despite the fact that making donations by legal entities is an approved international practice,<sup>21</sup> given the actual environment in Georgia, such donations increase the risks of corruption. There is an opportunity to finance political processes from a source with large financial resources through illegal, deceitful deals, or the effect of political influence. All the more considering the fact that even when legal entities were prohibited from making donations, a number of facts of illegal political finance were revealed regarding the disguised funding of political entities circumventing the law by persons with declared election goals and legal entities related to political parties.<sup>22</sup> Some of the companies denounced for illegal donations were based in offshore zones and in Georgia, they were represented by persons related to the electoral entity.<sup>23</sup>

In addition to the above risks, the facts of so-called 'political charity' are worth noting, when legal entities participating in public procurements win tenders and then donate funds to the ruling political party on behalf of the company, themselves, and their staff members. This trend is evident during almost all elections held in Georgia.

Another factor in allowing donations to legal entities is related to the risks of financing the entire political process from one source and monopolizing the elections. This is the case when

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<sup>18</sup> Decision of 15 March 2012 of the Tbilisi City Court Board of Administrative Cases, case No 3/1291-12. Decision of 2 April 2012 of the Tbilisi Court of Appeals on the same case, case No 4/A-76-12.

<sup>19</sup> Decree No 550 of 24 June 2005 of the President of Georgia on the approval of the National Anti-Corruption Strategy of Georgia.

<sup>20</sup> Organic Law of Georgia on Political Associations of Citizens, The Parliament Gazette, 45, 21/11/1997 (Law No. 2279 of July 29, 2013 – website, 15.12.2022).

<sup>21</sup> Funding of Political Parties and Election Campaigns, A handbook on Political Finance, 2014, 368-390.

<sup>22</sup> Decision No 4/A-155-12 of 17 July 2012 of the Tbilisi Court of Appeals Chamber of Administrative Cases.

<sup>23</sup> Decision No 4/A-149-12 of 11 July 2012 of the Tbilisi Court of Appeals Chamber of Administrative Cases.

electoral entities with declared electoral goals may finance their own political plans from their companies along with the use of third parties. They may actually own dozens of business entities that they manage through a nominee and act as a disguised beneficial owner.

Worth noting is that the funding of both political parties and individual candidates by legal entities is a fairly common practice (e.g., in Italy, Malta, Croatia, Czech Republic, Denmark, Finland, Iceland, Ireland, India, Turkey, Ukraine, Netherlands).<sup>24</sup> However, there are many important factors to give due consideration to; and the challenges related to the equal electoral environment in the country and creating risks of funding the entire political system from one source are the first among them. In this context, the country's internal political and legal situation, and economic and other specific challenges must be taken into consideration, all the more so when the reports of many highly respected organizations working on corruption issues lay down that the facts of making donations to the ruling political party by the companies participating in public procurements and the persons directly or indirectly related thereto are frequent.

It is because of the risks and challenges of illegal financing that many countries have imposed a ban on the funding of political parties by legal entities (e.g., Belgium, Albania, Brazil, Estonia, France, Egypt, Hungary, Israel, Latvia, Mexico, Poland, Peru, Luxembourg). It is worth noting that the legislation of some countries prohibits the funding of political parties by legal entities, although allows the funding of individual candidates (e.g., Spain, Azerbaijan, Germany) and vice versa –allows the funding of political parties but prohibits the funding of candidates participating in elections (e.g., Japan, Armenia, Romania).<sup>25</sup>

Unfortunately, this problem has been a challenge for decades and still has not lost its urgency; on the contrary, authorizing legal entities to make donations enlarged the scope and made the business a larger donor subordinated to the political environment. In this sense, political corruption is not only the direct distribution of funds but the creation of privileged, preferential conditions for specific companies, which then transfer funds to the account of the selected political party.

Therefore, given the actual situation in Georgia and based on the best international practices, it is important to once again carefully assess the viability of authorizing legal entities to make donations and the risks potentially associated with the holding of elections in an unequal environment and the financing of the political process by groups concerned having large financial resources.

## **6. Political Finance Monitoring Systems in Foreign Countries**

In today's world, the mandate of monitoring the funding of political parties and responding to violations has been assigned to various agencies. In most cases, the election management body performs that duty (e.g., Argentina, Azerbaijan, Brazil, Canada, Chile, Dominican Republic, Malta, Mexico, Ghana, Fiji, Poland, Peru, Sweden, New Zealand, Venezuela, Russia). In some countries, the duty of monitoring political finance has been distributed between the election management body and the audit institution (e.g., Armenia, Croatia, Ethiopia, Indonesia, and Lithuania). In some cases, the

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<sup>24</sup> The international IDEA Political Finance Database: <<https://www.idea.int/data-tools/world-view/55?st=bpi#rep>> [25.12.2022].

<sup>25</sup> Id.



controlling mandate is distributed among the election administration, the supreme audit agency, and various ministries (Cambodia, Finland); between the election administration and the court (Turkey); between the election administration and the specialized corruption control agency (Ukraine, Singapore). In the process of financial monitoring of parties, the court is involved with different mandates (for example, in Spain, Luxembourg, and Burkina-Faso).<sup>26</sup>

Like in Georgia, the duty of financial monitoring of political parties and legal response to violations has been assigned to an independent audit agency in, for example, Austria, Bulgaria, Israel, Mongolia, Morocco, and Tunisia. This mandate to the supreme audit agency is granted because of its status of independence. Under the Organic Law of Georgia on the State Audit Office, the State Audit Office shall be independent in its activities and bound only by the law. It shall not be allowed to interfere with and/or control activities of or request the State Audit Office to present a report on its activities unless expressly provided for by law. The exercise of any political pressure on the State Audit Office or taking any other actions that may infringe upon its independence shall be prohibited. The State Audit Office shall have operational, financial, functional, and organizational independence.<sup>27</sup>

Without any reasonable doubt, neglecting the principle of transparency and the information vacuum created thereby poses a threat of political corruption. The influence of money is one of the main factors that prevent many countries from achieving democratic ideals in political processes. Although money is a necessary element of democratic politics, in the hands of some individuals it can become a tool of inappropriate impact on the political process by bribing voters or influencing political decisions.<sup>28</sup>

Considering the above, it is important to establish an institutionally independent, strong, multi-functional anti-corruption agency in Georgia to effectively address the multifaceted challenges of corruption. Though the duties of monitoring political finance have been assigned to the newly established independent agency Anti-Corruption Bureau since 2022, there is still skepticism regarding its effective operation because of its neutrality and limited mandate.

## **7. Mandate of the Independent Anti-Corruption Bureau**

Political corruption harms a healthy political environment, prevents the free expression of the will of the voters, and violates the equality of the electoral process, thereby contributing to public disappointment and loss of trust in political associations.<sup>29</sup>

The State Audit Office carried out the function of monitoring the legality of political finance from 2012 to 2022 and on 30 November 2022, the Parliament of Georgia approved a package of amendments to the Law of Georgia on Conflict of Interest and Corruption in Public Institutions, which defined the mandate of the operation of the legal entity under public law – the Anti-Corruption

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<sup>26</sup> Funding of Political Parties and Election Campaigns, A handbook on Political Finance, 2014, 367-391.

<sup>27</sup> Organic Law of Georgia on the State Audit Office, Article 3, 26/12/2008.

<sup>28</sup> *Ohman M.*, Introduction to Political finance, Global Commission on Elections, Democracy and Security 2012, 33.

<sup>29</sup> *Ohma, M.*, Political Finance Regulations Around the World, / Stockholm: International IDEA, 2012, 48.

Bureau. And the Anti-Corruption Bureau was assigned the duties of monitoring political finance.<sup>30</sup> The above amendments were introduced in the scope of the 12-point recommendations of the European Commission to grant Georgia the status of a candidate for EU membership. The European Commission Opinion defined recommendations for granting candidate status to Georgia, the fourth paragraph of which concerns the need for anti-corruption reform, noting that Georgia should strengthen the independence of its Anti-Corruption Agency bringing together all key anti-corruption functions, in particular, to rigorously address high-level corruption cases; equip the new Special Investigative Service and Personal Data Protection Service with resources commensurate to their mandates and ensure their institutional independence.<sup>31</sup>

Combating political corruption, monitoring the legality of political finance, ensuring transparency and legal response to violations have been combined in the mandate of the newly based Anti-Corruption Bureau, which will start implementing the above functions from 1 September 2023.<sup>32</sup>

The monitoring mandate granted to the recently based Anti-Corruption Bureau is a system of legal measures aimed at reducing the risk of corruption in political finance by strengthening public control. However, it is still urgent to establish an independent, multifunctional anti-corruption agency in the country, which will be focused on the prevention of violations, also will be granted a law enforcement function, and be equipped with exclusive powers to investigate cases of corruption.

The UN Anti-Corruption Convention (UNCAC)<sup>33</sup> obligates each State Party to ensure the existence of a body or bodies engaged in the fight against and prevention of corruption. For many years now, all authoritative local and international organizations working on the topic of corruption in Georgia, including OECD-ACN<sup>34</sup> and GRECO<sup>35</sup>, have been referring to the same. In Georgia, anti-corruption functions are distributed among different agencies; however, in the wake of the reforms already implemented in the country, it is important to create such an institutionally independent, strong anti-corruption agency, which will combine all areas of anti-corruption measures, and perform the investigation and criminal prosecution functions.<sup>36</sup>

According to non-governmental organizations working on corruption issues, the introduced legislative changes do not fully meet the European Commission recommendations. Although bringing anti-corruption functions into one body is treated positively, they believe that the announced reform

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<sup>30</sup> Law of Georgia on Combating Corruption, Chapter V<sup>2</sup>, The Parliament Gazette, 44, 11/11/1997 (Law of Georgia No 2204, dated 30 November 2022).

<sup>31</sup> Commission Opinion on Georgia's application for membership of the European Union, Brussels, 17 June 2022, 12.

<sup>32</sup> Organic Law of Georgia on Political Associations of Citizens, The Parliament Gazette, 45, 21/11/1997 (Organic Law No 2279 of 1 December 2022).

<sup>33</sup> United Nations Convention Against Corruption (UNCAC), 2003, Article 6.

<sup>34</sup> Fighting Corruption in Eastern Europe and Central Asia. Anti-corruption reforms in Georgia / 4 th round of monitoring of the Istanbul Anti-Corruption Action Plan, 2016.

<sup>35</sup> Fourth Evaluation Round Corruption Prevention in Respect of Members of Parliament, judges and prosecutors, Evaluation Report Georgia, Adopted by GRECO at its 74th Plenary Meeting, Strasbourg, 28 November – 2 December, 2016.

<sup>36</sup> OECD Anti-Corruption Network for Eastern Europe and Central Asia, Specialised Anti-Corruption Institutions: Review of Models, 2008, 21-24, 31-38.

does not respond to the challenges facing the country in relation to corruption, especially when the Bureau is not given investigative authority and the issue of independent operation of the agency remains a challenge.<sup>37</sup>

The existence of an independent anti-corruption bureau in the country is important to ensure effective anti-corruption measures; however, for the successful operation of the recently established agency, it is crucial to gather all directions of anti-corruption measures within one system, *inter alia*, to equip the agency with a function of investigation and grant it both administrative and criminal legal response powers. Without this broad, independent mandate, the operations carried out by the agency will be important but ineffective in terms of outcomes.

## **8. Conclusion**

Thus, obviously, the funding of political entities is an important source of political corruption. Although important legislative changes have been introduced in Georgia and the legal sources of funding a political party were laid down in detail to avoid the funding of the entire political system by those having large financial resources, to eliminate the influence on the formation of the voters' will, and to prevent the threats of political corruption, the existing regulations still allow mechanisms disguised by law, by using budget funds, the possibility of illegal influence on the formation of voters' will. Especially against the background, when legal entities are authorized by law to make political donations of GEL 120,000 during the year, which gives the opportunity to the companies associated with the political entity to mobilize substantial funds on the account of the desired political party. This obviously damages and makes the election environment uncompetitive. Besides, it increases the risks of influencing the will of voters. Considering all the above factors, it is crucial to limit the right of legal entities to make donations. It is important to further reinforce the system of monitoring the funding of political processes by circumventing the law in order to eliminate the possibility of financing political processes from one source and to create all the conditions for political entities to conduct election campaigns under equal conditions.

Although the mandate of the legal entity under public law – the Anti-Corruption Bureau was defined in the country on 30 November 2022, the reform does not include gathering multi-profile, different anti-corruption functions within one agency. Despite the fact that following the drafting of the anti-corruption policy, such important areas as monitoring of officials' property declarations, whistleblowing, political corruption, and other important areas were combined in the Mandate of the Anti-Corruption Bureau, there is still skepticism regarding its effective operation. Since the Bureau will not be able to independently investigate and prosecute, the possibility of effectively combating high-level corruption is doubtful.

Thus, it is advisable to form an institutionally independent, strong anti-corruption agency to cope with all directions of anti-corruption measures and perform the investigation and criminal prosecution functions. Such agencies will be staffed by both investigators and prosecutors to

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<sup>37</sup> 'Transparency International – Georgia', Anti-Corruption Bureau Law Review, 2 December 2022.

eliminate, to the extent possible, all risks related to the impartiality and objectivity of the process, and unnecessary interference by interested parties in the course of an investigation.

In terms of anti-corruption reforms, Georgia maintains a leading position in the region; however, for greater progress in the Corruption Perception Index (CPI)<sup>38</sup>, it is important for Georgia to continue and further facilitate anti-corruption reforms, adapt the best international practice to the actual environment, reinforce the respect for the rule of law and democratic institutions among the community so that the law is not perceived as a tool of pressure but make its enforcement a way of life and a guarantee of protecting one's rights.

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<sup>38</sup> The Corruption Perceptions Index (CPI) is developed and published annually by the global anti-corruption organization – Transparency International. The CPI ranks of countries around the world, based on how corrupt their public sectors are perceived to be. The CPI is based on the research of various international organizations and consulting groups. The results are given on a scale of 0 to 100, where 0 is highly corrupt and 100 is very clean. The 2022 Corruption Perceptions Index (CPI) shows that most countries are failing to stop corruption. The 2022 study shows that Georgia was measured with 56 points ranking 41st among 180 countries.

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