

To the Prime Minister of Georgia

Mr. Bidzina Ivanishvili

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**Recommendations of Civil Society Organization Regarding the Action
Plan of the Government of Georgia for
“Open Government Partnership” (OGP)**

**Drafted by the
Institute for Development of Freedom of Information (IDFI)**

“Open Government Partnership” Action Plan of Georgia

At the offset of the XXI century, when rising levels of technology give a whole meaning to the word “democracy”, the Open Government Partnership took the position of the leading project that will deliver more transparent, open and accountable governments throughout the world.

The initiative for a more open government was started by the President of United States Barack Obama as a way to demonstrate his readiness “to create unprecedented level of government transparency”. In his 23rd September 2010 address to the United Nations General Assembly Obama called for “specific commitments to promote transparency” and invited other government leaders to join him in his effort to increase the level of openness of democratic governments, fight corruption and increase civil engagement.

The formal launch of the initiative occurred on September 20, 2011, in New York. The eight founding members (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, United States) endorsed the high level Open Government Declaration and presented their respective action plans. The representatives of the founding countries also welcomed the commitment of 38 new members, including Georgia.

The OGP represents an important initiative for the further development of freedom of information, greater transparency and accountability in all of its member states. It is especially important for Georgia, with its government trying to demonstrate its commitment to democratic values to the West now and again. Meeting the commitments of the OGP is a very important step towards the goal of eventually integrating into the Euro-Atlantic structures, an intention that the Georgian government has expressed many times.

One can state with confidence that Open Government Partnership implies the use of modern technologies for implementing new standards for openness, transparency and civil engagement. These approaches became the basis of the Open Government Declaration and were formed by four main principles:

1. **Increasing the availability of information about governmental activities;**
2. **Supporting civic participation;**
3. **Implementing the highest standards of professional integrity throughout our administrations;**
4. **Increasing access to new technologies for openness and accountability.**

Media Advocacy Coalition developed a number of recommendations regarding the action plan of Georgia, which were sent to the Ministry of Justice of Georgia (topics related to the Open Government Partnership are supervised by the Analytic Department of the Ministry of Justice). **A series of consultations were held, as a result of which the Government of Georgia took into consideration a part of the recommendations of the Coalition.**

17 and 18 April 2012 marked the first annual meeting of the OGP members in Brasilia, Brazil, with delegates from 53 countries present. Attending governments presented their action plans and took specific commitments for promoting transparency, fighting corruption, supporting civil engagement and making the governments more responsive and accountable. Georgia, among others, presented its action plan.

In the frameworks of OGP the governments should take specific obligations that should contain these main directions:

1. **Improving Public Services**—measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications and any other relevant service areas, by fostering public service improvement or private sector innovation;
2. **Increasing Public Integrity**—measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom;
3. **More Effectively Managing Public Resources**—measures that address budgets, procurement, natural resources and foreign assistance;
4. **Creating Safer Communities**—measures that address public safety, the security sector, disaster and crisis response, and environmental threats;
5. **Increasing Corporate Accountability**—measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement.

In the frameworks of OGP the Government of Georgia took specific obligations that **should be met in two years and contain four main directions**:

The process of fulfilling the obligations taken in the frameworks of OGP by the Government of Georgia is monitored by a forum of non-governmental organizations that gathers once a month and hears a report from the government about specific steps taken towards the goals of OGP.

During 2012, in the frameworks of the Open Government Partnership, the following suggestions of the Media Advocacy Coalition were taken into account in the obligations taken by the Government of Georgia:

1. In May 2012 amendments were made in the General Administrative Code of Georgia. According to these changes, public institutions are obligated to proactively publish public information on their websites by 1 September 2013;
2. According to the changes in the law after 1 September 2013 the possibility to request public information through e-mail should be available;
3. The website www.data.gov.ge is currently in testing. On this site, public information interesting to the general public, including information about state finances and budgets, will be available;
4. www.data.gov.ge should provide the function of requesting public information from any public institution electronically;
5. In 2013 a public platform ichange.ge should be created, which will support new ideas or public discussions, and will create the possibility to make changes in the country. In the mentioned space a function for civil petitions should be integrates with the precondition of their further discussion and review.

However, we think that the Government should take into account those recommendations and suggestions developed by the Coalition that are critical for the implementation of new standards of accountability and transparent public governance in Georgia. Specifically, we think that the action plan prepared by the Government of Georgia should include the following:

1. Developing a list of public information that should be published proactively and refining the current freedom of information legislature for the purpose of guaranteeing open governance and the availability of public information.
2. Taking steps necessary for creating a transparent public service, including developing systems for the declarations of assets by public servants and effective monitoring.
3. Supporting transparent legislative activity and maximal awareness and engagement of the citizens in these processes; increasing the accountability of legislative organs.

Open Government Partnership – Civil Society Recommendations

4. Providing the transparency of public finances, including, among other things, creation of an effective system to raise the awareness of the general public about the planning of the budget and its completion.
5. Creating websites/improving existing governmental websites, where the citizens will be able to access public information in a simplified format.
6. Developing effective mechanisms for public citizen engagement.

Civil Society Recommendations

I. The Open Government Partnership Action Plan Completion Supervising Organ in the Government of Georgia

We think it is important that monitoring mechanisms be developed for the action plan, specifically:

1. The plan must contain indicators for evaluating the activities.
2. The sources of financing of each activity in the frameworks of the plan should be determined beforehand.
3. Relevant risk-factors for each activity that might interfere with the activity must be determined beforehand.

Because of the importance of openness, transparency, accountability and civil engagement, we think that, for the purpose of better implementation of the obligations taken by the Government in the frameworks of the Open Government Partnership initiative, the supervision of the process should be transferred from the Ministry of Justice **directly to the Prime Minister/the Government. The implementation of obligations taken in the action plan should be overseen by those institutions that have the necessary competence, as well as human and technical, material and financial resources.**

The implementation of the action plan for Open Government Partnership should be controlled directly by the Government of Georgia.

Institutions responsible – Chancellery of the Government of Georgia

Terms of implementation: February 2013

II. Refinement/Development of a Legal Base

For providing open governance and proactive publishing of information, the existing legislative base should be reviewed, which will support greater availability of public information. A thorough and complex revision of legislation regulating freedom of information and availability of public information is necessary, for the purpose of improving legal acts, including implementation of the best international practices:

1. In a format of active cooperation and consultation with the civil society, the legal acts regulating the freedom of information in Georgia should be perfected - Chapter III of the General Administrative Code (e.g. waiving the fee for disputes over freedom of information, determining the

openness of the personal information of the public servants and officials, determining the mechanisms of drafting information, etc);

2. The legal norms and procedures that, in practice, complicate the availability of public information should be revised and, if necessary, refined (legal acts that include norms related to FoI).

3. Public consultations on a project of a new law “Law of Georgia about Freedom of Information” should start;

A governmental group should be created that will work on improving the legislation regulating freedom of information in Georgia in cooperation with representatives of competent civil society organizations and experts.

Institutions responsible: Chancellery of the Government of Georgia/Parliament of Georgia/Ministry of Justice of Georgia.

Terms of implementation: January 2013 - May 2013

III. Transparent Public Service

- The legislation for the protection of whistleblowers and internal guideline principles in related administrative organs need to be improved.

The mentioned obligation specifically implies the development of concrete mechanisms and procedures for the protection of whistleblowers.

Institutions responsible: Chancellery of the Government of Georgia/Ministry of Justice /Public Service Bureau.

Terms of implementation: January 2013 - December 2013

- The list of the officials, whose declarations of financial situation are subject to publishing on the search system of declarations - www.declaration.ge, should be expanded (all heads of public legal entities and their secretaries, secretaries of the heads of subordinate institutions, all heads of all ministry departments and offices and their secretaries, heads of the non-commercial legal entities founded by the Government and their secretaries, heads of Ltd.-s and JSCs created with 100% governmental share participation).

The mentioned liability implies relevant legislative changes - in the “law about conflict of interests in public service and corruption” and in the Presidential order - “law about conflict of interests in public service and corruption” and in the Presidential order - “about the rule for submission of the property declaration and the approval of the registry of those officials who are obligated to fill out property declarations”.

Institutions responsible: Public Service Bureau

Terms of implementation: January 2013 - March 2013

- An audit system of the property declarations of the public sector officials should be created. (The list of those officials, who will be audited, should be published beforehand. The names of those chosen officials, the terms of the audit and the information about the results of the audit should be made public. Obligatory audit should also be carried out in the cases when a request for an audit of a specific official is received in the Public Service Bureau).

Institutions responsible: Public Service Bureau

Terms of implementation: January 2013 - December 2013

- According to Section 4 of Section 5 of the regulations of the Government of Georgia, “the sessions of the government are, as a rule, closed.” In 2004, according to this addition, journalists were prohibited from attending government sessions, which effectively made the processes of the discussion and decision on very important issues in the executive branch secret. It is important that these restrictions be revoked, which will require a change in the Section 4 of Section 5 of the regulations of the Government of Georgia with the following: “the sessions of the government are, as a rule, open.”

Institutions responsible: Chancellery of the Government of Georgia

Terms of implementation: February 2013

- *An effective mechanism for raising the awareness of the general public on government activities should be developed. Transcripts of the protocols of the government sessions, resolutions and decrees should be published on the website of the government no later than one day after they were approved.*

Institutions responsible: Chancellery of the Government of Georgia

Terms of implementation: February 2013

- Public engagement in the decision process of important local issues in the collegial organs (self-governing units) should be guaranteed. **Organizing training programs in a format of active cooperation and consultation with the civil society** in the regions (municipalities / villages) which will facilitate an increase in the degree of awareness of the target groups about several key topics; forms of publishing the decisions made by city councils; procedures and terms of discussion of decision projects; terms and procedures of appealing against accepted normative, as well other administrative acts; terms and procedures of the participation in the control of the completion of the decisions by the citizens; initiation of a council decree project through petitions; participation of the citizens in the discussion of issues of local importance (including budget) during the Council and Council Commission sessions.

Institutions responsible: Ministry of Regional Development and Infrastructure

Terms of implementation: January 2013 - May 2013

IV. Transparent Management of Public Finances and Property

Improvement of the system of procurements:

- For the purpose of the openness of the unified electronic system of state procurements, unregistered users should be given access to the published procurement plans and reports published by the procuring organizations;
- Procurements made bypassing the electronic procurement system should be reduced. Procurements from the reserve funds of the President of Georgia, the Government of Georgia, the governments of autonomous republics and self-governing cities should be done using the simplified electronic procurement system;
- Commercial and non-commercial legal entities founded by administrative organs should complete simplified procurements in the section of the procurements that is done through the budget funds of the state, the local self-governing units or autonomous republics;
- Detailed criteria (list) for simplified procurements should be developed;
- For the purpose of openness of state procurements, all those tenders that fall under the procurements under Article 1, Sub-Paragraph 4 of Paragraph 3 of the law about procurements and implies delivering public services should be published on the website of the Procurements Agency as soon as the tender is declared.
- Relevant changes in the law “about state procurements” should be implemented.

Institutions responsible: Competition and State Procurement Agency / Chancellery of the Government of Georgia / Ministry of Finance of Georgia

Terms of implementation: January 2013 - May 2013

Transparency of the planning of the state budget and expenditures and the awareness of the citizens

- Maximum awareness of the general public and interested groups of the process of the planning of the budget, including in-depth public discussions, should be provided. Specifically, easily accessible online and offline platforms should be created, where the interested citizens will have the possibility to regularly engage in the consultations regarding the budget. Systematic feedback and information to these citizens should be provided about what kind of influence their ideas had on the development and implementation of the priorities of the state budget. The mentioned liability should be written in a separate legal act (Georgian Budget Code).
- The main budget document should be published regularly and in time and should be made available both electronically and in print.
- Information about the audit reports on the expenditures of the state budget, including the conclusion of the Audit Service about the completion of the budget goals, should be made available (through publication on the website of the Ministry of Finance).
- Legal acts about the allocation of money from reserve funds should be proactively published on the websites of the Ministry of Finance no later than the day after they have been issued.

Institutions responsible: Ministry of Finance of Georgia/ State Audit Service

Terms of implementation: January 2013 - December 2013

Availability of existing information about auctions, state programs/projects, grants and financial assistance, and investment projects:

- Information about auctions, taking into account existing details (e.g. information about the assets of the enterprises to be privatized and related obligations) should be proactively published on relevant electronic resources so that the potential buyers, including international buyers, have time and information necessary to thoroughly evaluate the action;
- For the purpose of raising the awareness of the local population the information about the privatization of state property should be spread in advance on the websites of the local self-governing units;

- For the purpose of greater transparency of the electronic system of state auctions (www.e-auction.ge) the existing website should have a format similar to the website of the state electronic procurements www.tenders.procurements.gov.ge.

Institution responsible: Ministry of Finance of Georgia / Ministry of Economy and Sustainable Development of Georgia / Ministry of Finance Service Agency

Terms of implementation: January 2013 - December 2013

- Information about investment projects and the investors themselves, as well as information about contract obligations and meeting these obligations, should be made maximally available;
- Transparency of the existing information about current infrastructural projects (plan of the project, plan of the impact on the environment, reports on expenditures) in Georgia should be guaranteed.

Relevant agencies should have an obligation to proactively publish the mentioned information on their online resources, and the terms and procedures of publishing the information should be determined.

Institutions responsible: Government of Georgia

Terms of implementation: January 2013 - May 2013

Implementation of the Extractive Industries Transparency Initiative in Georgia (EITI)

- The implementation of the “Extractive Industries Transparency Initiative” (EITI) in Georgia.

The Government of Georgia should undertake the obligation to implement the “Extractive Industries Transparency Initiative” www.eiti.org – EITI is an international standard of transparency and accountability that was in the last years joined by U.S.A., Norway and other advanced countries. By supporting this initiative, Georgia will take upon itself the obligation to publish the following public information yearly (once a year): the volume of oil and gas that passed the territory of Georgia in transit and the income to the budget from transit and other taxes.

Institutions responsible: Ministry of Finance of Georgia / Ministry of Economy and Sustainable Development of Georgia/ Ministry of Energy and Natural Resources of Georgia / JSC „Georgian Railway“

Terms of implementation: January 2013 - December 2013

- Information should be available on www.data.gov.ge (financial information, yearly reports, obligations, contact information, information about NNLS founded by administrative organs and Ltd.-s and Joint Stock Companies founded with partial participation of the Government).

Institutions responsible: Ministry of Finance of Georgia / Ministry of Justice of Georgia

Terms of implementation: January 2013 - December 2013)

V. Reformation of the Public Electronic Space

- **Proactive publishing of public information**

A legal act relevant to the list of information for proactive publishing on the official websites of the administrative organs should be developed in accordance with the standards and list (**Appendix 1**) presented by the Institute for Development of Freedom of Information (IDFI).

Institution responsible: Chancellery of the Government of Georgia / Ministry of Justice of Georgia

Terms of implementation: January 2013 - May 2013

- **Public libraries - bridges to raising awareness and developing e-governance**

The creation of educational centers equipped with modern technologies (internet, computers, new books) based on the existing regional libraries of Georgia (over the course of 2013 a pilot project will start, which will involve the creation of 5 centers in the regions of Georgia).

Initiative, the purpose of which is to enable free access to official information, interaction between citizens and government via libraries, train librarians to use e-government resources and technologies, implement an awareness-raising campaign and popularize e-government.

Institutions responsible: Public Service Development Agency / Ministry of Justice of Georgia / Ministry of Regional Development and Infrastructure / Ministry of Education and Science/ Ministry of Culture and Monument Protection / Chancellery of the Government of Georgia

Terms of implementation: January 2013 - December 2013

VI. Awareness and Engagement of the Citizens

Developing mechanisms for the participation of the citizens on the official website of the Government of Georgia and creating the Open Government Partnership Forum

Along with the Prime Minister, for the purpose of public engagement, it is desirable that a platform for the discussion of the action plan of Georgia be developed. An official page for Open Government Partnership (<http://www.government.gov.ge/ogp>) should be created on the official website, where information about the implementation of the action plan (on the languages of ethnic minorities included) will be published. The OGP page should be represented by a separate banner on the main page of the official website of the Government. Social networks should be used for spreading information and receiving ideas and recommendations from the citizens (e.g. the Facebook page of the Government or a Facebook page created specifically for OGP).

At the same time, the Government of Georgia should periodically provide the public with reports on the process of the implementation of the action plan. To this end, a forum should be created. The forum should be based on the principle of openness and registering for the participation in this forum should be possible through the official web-page created for OGP (www.government.gov.ge/ogp), after filling in the appropriate registration form. On the forum, the participants will discuss the specific steps of the Government towards implementing the action plan for OGP, and the citizens will have the possibility to discuss specific topics with the representatives of the Government, as well

as provide them with their ideas and recommendations. Information about the agenda of the forum should be published on the web—page of the Government no later than a week before the session.

Institutions responsible: Chancellery of the Government of Georgia

Terms of implementation: January 2013 - March 2013

- Periodic meetings, public consultations, advertisements and TV and radio programs should be organized by the Government of Georgia for the citizens (public institutions, educational institutions, local self-governing units, ethnic minorities, NGOs, etc.) for the purpose of raising the awareness of the general public about the obligations and implemented steps in the frameworks of the Open Government Partnership.

Institutions responsible: Government of Georgia

Terms of implementation: January 2013 - December 2013

- For the purpose of supporting the awareness and participation of the citizens, the government should develop concrete effective mechanisms for the engagement of the general public in coordination with the civil society. At the same time, a report about the implementation of the action plan for OGP should be published and sent to different interested target groups (nongovernmental and international organizations, diplomatic corps, academic circles, students, the general public, the report should be available in the languages of ethnic minorities) and public discussions of the report will be organized.

Institutions responsible: Chancellery of the Government of Georgia / Ministry of Regional Development and Infrastructure

Terms of implementation: January 2013 - May 2013

- Development of *informational-educational print products (brochures, leaflets)* on the languages of the minorities and their spread in the the regions compactly settled by ethnic minorities (municipalities / villages), which will facilitate an increase in the degree of awareness of the target groups about the issues described above.

- *Preparing and broadcasting special informational-educational programs in the local media outlets*, which will facilitate an increase in the degree of awareness of the target groups about all the issues described above. Supporting wide participation of experts, the civil society sector and the representatives of the local self-governing organs in these programs.

Institutions responsible: Ministry Regional Development and Infrastructure

Terms of implementation: January 2013 - December 2013

Organizations that join the recommendations:

1. Media Advocacy Coalition
2. Georgian Young Lawyers' Association
3. Transparency International - Georgia
4. Open Society Georgia Foundation
5. Levan Mikeladze Foundation
6. Regional Broadcasters Association of Georgia
7. Civil Development Agency (CiDA)
8. Green Alternative
9. Democratic Development Union of Georgia
10. Georgian Institute for Public Activities (GIPA)
11. Regional Media Association of Georgia
12. Media Monitoring Center of Georgia
13. Union of Democrat Meskhs
14. Center for Strategic Studies and Development
15. Public Movement Multinational Georgia
16. Mothers of Disabled Women and Children Association (DEA)
17. Georgian Library Association
18. Institute for Development of Freedom of Information (IDFI)

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