

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY GEORGIA

## ARTICLE 7, PARAGRAPH 4 UNCAC

### CONFLICT OF INTEREST

#### GEORGIA (NINTH MEETING)

I. Information requested from State parties in relation to preventing and managing conflicts of interest (art. 7, para. 4)

1. Measures/steps the country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflict of interest.

#### *Restrictions under the Law on “Conflict of Interest and Corruption in Public Service”*

The legal framework regarding the conflict of interest is set under the law of Georgia on “Conflict of Interest and Corruption in Public Service” (CoI). This Law establishes **basic principles of prevention, discovery and elimination of conflict of interest and corruption in public institutions and basic principles of responsibility of perpetrators of corruption, and the basis and mechanisms of legal regulation**. The law defines the conflict of interest as the conflict of property or other private interests of a civil servant and public officials (Public Servant), with the interests of a public institution.

**The incompatibility issues and restrictions of action** are covered by the Chapters II and III of CoI, according to which the Public Servants are restricted to:

- Use official powers or opportunities related to them to the prejudice of the interests of public institutions or for the solution of issues outside their official powers;
- Disclose or use for unofficial purposes information containing official secrets or any other confidential information, the public availability of which is restricted under the legislation of Georgia and of which they have become aware in the course of official duties;
- Receive or require compensation in the form of pecuniary or other benefit for the services, which are free of charge;
- Receive or require compensation higher than it is established;
- Receive any compensation for publishing information created or obtained in the public sector or for publishing works, reports or other material on the basis of such information.

Public Servants are not allowed to purchase property of a public institution entrusted to him/her, enter into a transaction with a public institution in which he/she works, with his/her business entity, political party or other public institution or with his/her family member or close relative as a public servant.

CoI regulates the ***restrictions of outside activities*** of Public Servants. According to law, Public Servants may not perform any kind of paid work (except for scientific, pedagogical or creative activities), hold another position in any public institution or legal entity under private law, or be a member of a representative body of any level, or perform any kind of paid work or hold a position in a body or institution abroad, also receive income from an organization that is under his/her official supervision or be assigned to supervise the organization, in the supervising body of which his/her family member is employed.

In order to avoid ***the conflict of interest*** the public servant is limited to be a representative or a proxy of any natural or legal person, or represent or defend him/her/it in criminal law, civil law or administrative law cases before or against any public institution, except when he/she is a guardian, care giver or supporter of this natural person.

A public servant may not hold a position in any enterprise, be a permanent head of a business entity, or a member of a controlling, a supervisory or an auditing body or carry out entrepreneurial activities. Regarding the entrepreneurial activities the restrictions is considered as well for Public Official or his/her family member, who are not allowed to hold a position or perform any kind of work in an enterprise registered in Georgia, the control of entrepreneurial activities of which falls within the powers of this official or his/her office and also, an official or his/her family member may not hold stocks or a capital share in an enterprise, the control of activities of which falls within the powers of this official or his/her office.

CoI defines also the areas of activities where there could not be the risk of conflict of interest by letting public servants perform paid work only within the system of the same public institution, where they are employed and also hold stocks or a share in an enterprise, but for the term of her/his office, under a trust agreement, transfer to other persons for management a capital share (block of stocks) of an enterprise of the business entity owned by her/him.

For ***preventing the risk of potential conflict of interest*** in recruitment process, the CoI defines additional restrictions for Public Officials on appointing an Public Official's close relative as an officer on the basis of an agreement under public law or an employment agreement to a position that is under official supervision of that official (except when appointed through a competition). Under Close relatives the CoI considers family member, direct ancestor or descendant, stepchild, sibling, as well as a stepchild of his/her parent or child. Additionally, the law obliges an Official of submitting documents certifying the elimination of his/her incompatibility or his/her family member to the superior official (body), under whose immediate subordination he/she is, and to the human resources management unit.

In case of incompatibility, the Public Official or his/her family member shall resign from an incompatible position or terminate incompatible activities within 10 days after the appointment of this official, unless otherwise provided for by the Constitution of Georgia or by law.

As for the sanctions, according to CoI, unless otherwise provided for by the Constitution of Georgia and the organic law, an official shall be dismissed if:

- He/she or a member of his/her family violates the incompatibility provisions under this Law;
- It is confirmed by a court decision that he/she owns illegal and/or unsubstantiated property.

Beside the penalties, in order to prevent the conflict of interest and incompatibilities, the CoI determines the responsibility of public official, within one year after dismissal, to complete and submit an official's asset declaration within the respective month of completion of the previous declaration, unless he/she is appointed to any other position. As a result, affecting on the reputation of public officials could also be considered as a mechanism of deterring the conflict of interests and incompatibilities.

The CoI defines also the measures aimed at preventing the Conflict of Interest concerning former public officials. A dismissed public servant may not, within one year after dismissal, start working in the public institution or carry out activities in the enterprise which has been under his systematic official supervision during the past three years. Within this period, he/she also may not receive income from such public institution or enterprise.

#### ***Restitutions under General Code of Ethics and Conduct for Civil Service***

Further ***restrictions and standards of behavior regarding the prevention of conflict of interest*** is also defined and regulated by the decree of Government on “General Code of Ethics and Conduct for Civil Service” (Ethics Code), adopted on 20<sup>th</sup> of April, 2017, creating the ethical environment by developing the professional standard of Civil Servants and implementing the fundamental principles and values in Civil Service.

According to the Ethics Code, Civil Servant does not accept any offer that causes or may cause conflict of interests with the position occupied by him/her or/and may affect performance of his/her official duties. She/he avoids the circumstances that may be deemed as the direct or indirect influence of private interest over his/her service activities.

In case of ***conflict of interest or/and possible emergence thereof***, a civil servant does not participate on behalf of the public institution in the process of contract drafting or/and conducting negotiations with another institution/organization; a civil servant neither participates in the process of formation of policy, making a decision of public interest or/and providing consultations to any other institution or/and civil servant. In case of detection of conflicts of interest during the performance of the abovementioned authorities, a civil servant notifies the public agency, on behalf of which he/she works as well as ensures a self-withdrawal.

The Ethics Code regulates the ***limitations on receiving additional income or other benefits***. In the process of carrying out official duties a civil servant does not demand or/and receive tangible or intangible benefit, except for the cases envisaged by the legislation, either from a physical person or legal entity and does not use official power for the private interests. Except for the cases defined under the legislation, a civil servant is not paid for the activities that he/she was requested

to perform as the representative of the public agency and which implies sharing the knowledge acquired during the performance of his/her official functions to the interested persons or wide society in the course of business or non-working hours.

A civil servant does not uphold advantages of natural persons or legal entities that were related to him/her on a private or official basis. In the course of performing his/her official duties a civil servant does not give any advantage to his/her family members, close relatives or/and any person related to him/her. In case of doubt regarding this occasions, a civil servant discloses the information to his/her direct supervisor.

### *Training and Awareness Raising Campaign on Ethics and Anti-corruption mechanism*

Since 2015, Civil Service Bureau conducts the trainings on ethics, anti-corruption and Whistleblowers protection mechanisms, for the representatives of governmental institutions (line ministries, Legal Entities of Public Laws (LEPLs), Administration of President, members of the apparatus of the Parliament, administration of state trustees – Governors, central institutions of the Autonomous Republics). As a result, during 2015-2017, 1341 civil servants and public officials were trained.

Within the framework of Awareness Raising Campaign, the Handbook on Ethics and Code of Conduct of Civil Servants was updated, published and distributed throughout the civil service, Guidelines on Code of Ethics and new Law Civil Service was elaborated and published, a module on ethics for political appointees as well as the concept of an E-learning module on ethics were developed.

## **2. The actions required ensuring or improving the implementation of the measures described above and any specific challenges might be facing in this respect**

The main challenges regarding the conflict of interest is related to the developing the proper legislative and regulatory framework. As the CoI of Georgia was adopted in October, 1997 most of the regulations lack the possibility to respond the resent difficulties related to conflict of interest, restrictions and limitations does not create the sufficiently effective framework for managing and preventing the conflict of interest. To respond the recent challenges regarding the Conflict of Interest in Georgian Civil Service, the CoI needs to be amended or new legislative or regulatory framework developed.

## **3. Technical assistance is required in order to allow you to fully implement this provision**

**Legislative assistance:** the assistance in developing the modern legislative or regulatory framework for preventing the Conflict of Interest.

**Capacity building:** build the capacity of Staff of Civil Service Bureau by providing the trainings on more effective tools and mechanisms for detecting, preventing or fight against the Conflict of Interest, sharing the knowledge regarding the effective existing awareness raising mechanism.

**Research/data gathering and analysis:** the assistance in providing the Regulatory Impact Assessment (RIA) on CoI.

**Facilitation of international cooperation with other countries:** sharing the experience of other countries regarding the detecting and preventing the conflict of interest in civil service.