Brief legal and economic analysis of the corruption problem in Georgia

Salkhinashvili Maka¹, Giguashvili Giuli²

¹ Doctor of Law, Professor; Gori State University; Republic of Georgia;
Grigol Robakidze University; Republic of Georgia

² Doctor of Economics, Professor; Gori State University; Republic of Georgia;

Abstract.
For the last several decades, the fight against corruption has been one of the main declared priorities of the Georgian government. In this regard, Georgia has made significant progress in recent years, confirmed by international indices and studies - Global Corruption Barometer, Trace International, World Bank Doing Business Index, Rule of Law Index, and others. In order to promote the process of fighting corruption, an anti-corruption policy was developed, new priorities for the fight against corruption were approved, a new action plan was adopted, the procedure for public service competition, property declarations of officials, wages, public procurements, the whistleblower protection institute, and others were introduced. The work highlights the challenges of the fight against corruption in Georgia and discusses the legal and economic aspects of the current reforms in the fight against corruption. A reliable and stable fight against corruption will help strengthen the country's economy.

Keywords:
corruption
anti-corruption policy
Introduction. The word "corruption" is Latin (corrumpo) and means spoiling. "Corruption is the fruit of criminal consciousness and finds a fertile ground where the law does not make laws and the moral level of the society is low... where the principle of the inviolability of the dignity and honor of the person is scorned and ridiculed." [1]. Corruption is mostly used to refer to various illegal activities. On December 17, 1979, at the 34th session of the United Nations General Assembly, the concept of corruption was defined as an act or omission committed by an official in the interest of obtaining a reward in exchange for a reward, in accordance with or in violation of official powers. In short, corruption means abuse of power for personal gain. [2]

According to the preamble of the European Convention, "corruption is a threat to the rule of law, democracy, and human rights, undermines good governance, justice, and social equality, prevents competition, hinders economic development, threatens democratic institutions and moral values of society." [3]

Aim of research. The research aims to introduce the priorities of the fight against corruption, deepen international relations and share international practices, and develop recommendations for improving the legal and economic regulation of the activities of the Anti-Corruption Council.

Methodology. In the research process, significant findings reflecting the current reality have been found and evaluated. Relevant scientific economic and legal literature and new legal regulations are analyzed.

Literature review. In the wake of the processes of globalization, corruption has been constantly changing. It has become a transnational phenomenon. At present, corruption is not only a domestic but also an actual international problem. Its connection with international terrorism is particularly dangerous.

Negative manifestations of corruption are actions when public officials demand a certain amount or benefit in exchange for their services; State political officials abuse the power in their hands, spend state budget funds in an untargeted manner; Using their influence, they employ family members and relatives in various government positions;
influence the results of state tenders. Corruption also includes bribery of public officials by corporations to secure a desired deal.

Corruption and corrupt practices can occur in any field, be it business, government, judicial system, mass media, civil society, health care system, or infrastructure and sports. In addition, corruption can be in contact with a representative of any field, be it a politician, civil servant, businessman, or public figure. In most cases, corrupt actions are carried out secretly, with the help of representatives of such fields as bankers, lawyers, and financial managers through the impoverished financial schemes creation. [4]

It is noteworthy that in most cases, corruption is not directly criminalized in the states. But responsibility is established for individual actions through which corrupt actions are carried out, such as bribery, embezzlement, fraud, extortion, etc.

Types of corruption can be conventionally divided as follows:

**Bribery** - represents the illegal acceptance of money or gifts, or the offer of such by a private person, in exchange for assistance provided by an official.[5] A distinction is made between active and passive bribery - active bribery includes a criminal act such as giving a bribe, and passive bribery includes a criminal act such as accepting a bribe. Both types of actions are criminalized in most countries and carry corresponding liability.

**Extortion** - Unlawful demand or receipt of property or money by force or threat. An example of extortion in terms of implementing a corrupt action is the request for money from a person with the relevant authority in exchange for the performance of certain services.

**Fraud** - fraudulent activities are another type of corrupt practice through which a person illegally enriches himself through deception, trickery, and false claims. In the case of fraud, a person takes possession of someone else's property or obtains property rights by deception for unlawful appropriation.

**Nepotism** - patronage by officials of their relatives and friends. It includes situations where a person uses authority and power to provide services and other benefits to his
POLITICAL SCIENCE
AND PUBLIC ADMINISTRATION

relatives. Nepotism can take place in any field of activity. At any level of government - high political officials, in most cases, resort to nepotism to maintain and strengthen their power and position.

Cronyism - in the case of cronyism, a person who has the appropriate authority abuses it and appoints friends to the position. Although their qualifications are not in accordance with the requirements of the position to be held. The main reason for such action is to have an ally. Appropriation of state property for personal interests - represents the appropriation of the property and funds that a person was legally entrusted with according to his official position.

Influence trading - is a person who asserts or confirms that he can have an unfair influence on the decision-making by an official or a person equal to an official, directly or indirectly, for his or another person's benefit, money, securities, other property, property benefits or any other unfair the promise, offer or granting of an advantage by a person acting for his own or another person's interests, regardless of whether such influence is exercised or not and/or whether the desired result of this influence is obtained.

Corrupt action, the implementation of which requires the participation of two parties, can take place in the presence of such circumstances as public tenders, where the bribe is a means to influence the results of the tender or the terms of the contract. In the state benefits redistribution - when using a bribe, it becomes possible to direct the funds allocated from the state budget to the desired persons. Also, through the said corrupt action is possible to obtain the desired license and permits to carry out such activities as importing products with high demand in the market. In addition, bribes can be used to obtain benefits such as state-subsidized medical care, higher education, and housing.

Causes of corruption can be several laws, regulations, decrees, and orders restricting business and economic activities, which create a fertile ground for further corrupt schemes and actions, especially if the above-mentioned regulations are characterized by complexity, inconsistency, and difficulty. In addition, favorable conditions for the implementation of corrupt schemes and actions are created in
such states, where decision-makers are granted wide discretionary powers concerning the interpretation of regulations and rules, have the right to interpret, use, change, in clear cases, add conditions to the existing regulations and rules at their discretion. In addition, the lack of an effective mechanism significantly contributes to the increase in the level of corruption, which is manifested in the fact that in some cases, corrupt actions are not criminalized, or the measure of responsibility provided for when they are committed is not strict enough.

Corruption is high in countries where there is no political will to fight it, and appropriate measures are not implemented, the principles of distribution of power between institutions are violated, the competence of civil servants and educational opportunities are low, members of society have less information and skills on how to fight corruption. [6]

Different types of corruption are described in the legal literature: high and low level, organized and chaotic, systemic corruption. High-level corruption refers to implementing corrupt schemes and corrupt actions by high-ranking political officials. Their active involvement in corruption and implementation of corrupt actions may be caused by various political, economic, social, and cultural reasons, including maintaining power and position. Corruption at the highest echelons is not so much about the amount of money involved in the process but the level at which it takes place. High-level corruption involves more money than bureaucratic or low-level corruption.

As for low-level corruption, the subjects of which are mainly low-ranking civil servants, there is a place where the bureaucracy has direct contact with the public. This type of corruption involves low- and middle-ranking civil servants who may have very low salaries and depend on the proceeds of corrupt practices to support their families and pay for their children's education. This type of corruption, in most cases, involves much smaller sums than high-level corruption, although these sums are not small for the individuals affected by this corrupt event. It is worth noting that low-level corruption particularly affects the poorest sections of society, from whom bribes may be regularly demanded. According
POLITICAL SCIENCE
AND PUBLIC ADMINISTRATION

to the widespread opinion, at the mentioned level, an effective method of eliminating corruption is considered to be the increase of official sargo and the tightening of responsibility in the cases of implementation of corrupt actions.

Well-organized and chaotic corruption are also distinguished from each other. In cases of well-organized corruption - the corruption schemes and actions are systematically organized, and the actions they will take and the corresponding consequences are known and clear to each party in advance. In addition, well-organized corruption systems mainly focus on the long-term perspective, and the ruling elite has relatively strict control over the corruption process and income.

In contrast to well-organized corruption, in the case of chaotic corruption, the person carrying out the corrupt action does not know in advance what kind of steps to take. It is also unpredictable whether the action they take, for example, bribing, will bring results. However, in the case of a well-organized corruption system, it is clear to whom bribes should be paid, in chaotic corruption payment of bribes may be necessary for a few officials.

Systemic corruption is also distinguished, which occurs when corruption is a single and integral part of the economic, social, and political system. Systemic corruption includes a situation where the main institutions and processes of the state are managed by corrupt individuals and groups. [7]

The Convention against Corruption, developed by the United Nations (UN), is a document through which the contracting states of the Convention define a strategy on how to prevent corruption and criminalize it. The Convention aims to improve international cooperation in the fight against corruption. The United Nations Convention against Corruption outlines such fundamental principles as measures to prevent corruption, Criminalization, law enforcement activities, international cooperation, and return of assets. [8].

Discussion and Results. In Georgia, the fight against corruption is one of the government's main priorities. Since 1997, the "Law of Georgia on the Fight against Corruption" has been in effect in Georgia. It establishes the basic principles, bases, and mechanisms of legal regulations for
preventing, detecting, and suppressing conflicts of interest and corruption in public institutions, as well as the responsibility of those who commit corruption offenses. It also regulates the conditions and mechanism for submitting property declarations of officials, monitoring the submitted declarations, as well as the basic principles of whistleblower protection, ethics, and general rules of conduct. [9]

It is noteworthy that Georgia is a signatory state of the UN Convention against Corruption of October 31, 2003, and is actively taking steps to promote the fight against corruption. To promote the process of fighting corruption, in 2005, the first national anti-corruption strategy and corresponding action plan of Georgia were adopted by the President of Georgia. In order to promote the process and better manage it, in 2008, an interdepartmental coordination council for the fight against corruption was formed, whose functions include the coordination of anti-corruption activities in the country, updating the anti-corruption strategy and action plan and monitoring their implementation, control of reporting to international organizations, initiation of relevant legislative activities and preparation of recommendations. The 2019-2020 national anti-corruption strategy and the 2019-2020 action plan for the implementation of the strategy were approved on October 4, 2019, by the government resolution N484, based on the 2018-2020 government program, the best international experience, recommendations of international organizations, as well as the evaluation of the performance of previous strategic documents and non-governmental / the analysis of studies of international organizations. The work process was carried out based on sixteen strategic priorities of the fight against corruption, which were prepared as a result of the active work of the expert-level anti-corruption working groups.

In 2019, a national anti-corruption strategy was developed in Georgia, which details the sectoral priorities of the fight against corruption, monitoring and implementation evaluation of the anti-corruption strategy and plan. [10]

The anti-corruption strategy in Georgia defines 13 main priorities, which were formed as a result of active cooperation between the government and the non-governmental
POLITICAL SCIENCE AND PUBLIC ADMINISTRATION

sector. The mentioned priorities are:

1. Effective inter-agency coordination to prevent corruption;
2. Prevention of corruption in public service;
3. Openness, availability of public information, and citizens' involvement in the fight against corruption;
4. Education and public awareness raising to prevent corruption;
5. Prevention of corruption in law enforcement bodies, effective detection and prosecution of corruption crimes;
6. Prevention of corruption in the justice system;
7. Ensuring transparency and reducing corruption risks in the field of public finances and public procurement;
8. Prevention of corruption in the customs and tax system;
9. Prevention of corruption concerning the private sector;
10. Prevention of corruption in the healthcare and social sector;
11. Prevention of political corruption;
12. Prevention of corruption in the defense sector;
13. Reduction of corruption risks in regulatory bodies.

In general, anti-corruption measures include three main dimensions. These are:
- Conscientiousness
- Transparency
- Accountability.

"Transparency International" organization annually compiles the corruption perception index of different countries. The Corruption Perceptions Index is the most widely used corruption global ranking worldwide. It measures the level of corruption in each country's public sector based on the opinions of experts and the business sector. The Corruption Perception Index is prepared based on research by authoritative international organizations, each of which contains an assessment of the current state of corruption in different countries. The lower the perceived level of corruption in a country, the more points it deserves. To date, no country in the world has obtained 100 points, and more or less corruption exists in all countries. Therefore, every country faces the task of fighting corruption. Corruption
continues to be an obstacle to economic development for many countries, which limits both the well-being of citizens and the country's aspiration to inclusive development.

According to Transparency International's 2023 Corruption Perceptions Index (CPI), Georgia has 53 points, which is a three-point decrease compared to the previous year. Even though Georgia maintains its leading position in the region, it has not had such a low score since 2015. [11]


Corruption remains a problem in Georgia, which points to deeper systemic problems - the concentration of power and the clear influence of elites on state institutions and decision-making.

It is noteworthy that on November 30, 2022, based on the amendments made to the law of Georgia - "On the fight against corruption," an independent public law legal entity - the Anti-corruption Bureau - was created. Within the framework of the mentioned reform, the corruption prevention mechanisms were united under one agency. The main direction of the Bureau's activity is to define the general policy of fighting
against corruption, to develop the national anti-corruption strategy and action plan and to monitor the implementation of the mentioned plan, to prevent, detect and prevent incompatibility of interests in the public institution, to develop relevant proposals and recommendations, etc. The Bureau also ensures the declaration, monitoring, and publicity of the property status of officials. [12]

The country's anti-corruption policy is determined by the general anti-corruption policy document, the national anti-corruption strategy, and the action plan for its implementation. That determines ways to overcome existing challenges and strengthen anti-corruption mechanisms.

For the democratic and economic development of the country, as well as for maintaining and improving the achievements in the fight against corruption, the priority direction of the anti-corruption bureau's activities is cooperation with international and partner organizations, development, and deepening of relations. Workshops were held in different European cities: Madrid (Spain), Strasbourg (France), Brussels (Belgium), Chisinau (Moldova), and Vilnius (Lithuania) to share the best international practices in 2023-2024, with the participation of the Anti-Corruption Bureau. Also, the Bureau's representatives participated in the Global Anti-Corruption Development Forum of the World Bank Group in Washington (USA).

In addition to deepening international relations, the Bureau, as a national coordinator, cooperates with various international organizations in the country assessment process and coordinates the implementation of their recommendations. Corruption in the public service is often exposed by journalists as a result of "journalistic investigation." In it, signs of corruption and embezzlement of people's money by public officials and government members are highlighted. On the website of the State Security Service of Georgia, the following note is published - "The fight against corruption is of crucial importance in ensuring state security. Corruption interferes with the proper functioning of the public sector, weakens public trust in state institutions, and hinders the stable and democratic development of the country. Corrupt public officials are potential targets for
criminal groups and foreign intelligence agencies. That is why the fight against corruption is a matter of state security. After implementing the recommendations, on December 14, 2023, the European Council granted Georgia the status of a candidate country for EU membership and gave new recommendations.

**Conclusion and recommendations.** It is significant that the government of Georgia officially recognizes the existence of the corruption problem in the country and starts taking such steps as a priority, such as:

- Elimination of informal influence on public institutions and other manifestations of state capture;
- Removing the function of investigating corruption from the State Security Service and creating an independent anti-corruption agency that will be responsible for investigating high-level corruption and effectively enforcing anti-corruption legislation;
- Ensuring the independence of the prosecutor's office and protection from undue influence;
- Reforming the judicial system;
- Strengthening the supervisory role of the Parliament;
- Update of anti-corruption policy;
- Fulfillment of international obligations and recommendations.

**References:**


POLITICAL SCIENCE
AND PUBLIC ADMINISTRATION


