INSTITUTIONS OF INTERNAL CONTROL IN GEORGIA: INTERNAL POLICE VS. INTERNAL AUDITING

The European Neighbourhood Policy Action Plan states that the government of Georgia should develop a strategy paper and legislative framework for public internal financial control. In addition, the Georgian system of control and audit of public incomes, expenditures, assets, and liabilities should be harmonised with international standards and EU best practices.[1] The OECD monitoring report on anti-corruption activities asserts that the Georgian authorities should increase the capacities of internal control bodies, such as that of general inspectorates.[2]

Other strategic documents of the government of Georgia further develop guidelines for internal control. The National Anti-Corruption Strategy identifies meeting internationally-recognised internal and external audit standards as a key priority. It calls for the adoption of a special Law on General Inspectorates that will establish independent offices of the Inspector General. These offices are to be granted political and operational independence and the human, material, and other resources needed to appropriately investigate the activities of civil servants in the central government agencies. According to the Strategy document, general inspectorates will also bear responsibility for internal auditing; its specific duties will be distinct from those of the Prosecutor General and the Chamber of Control of Georgia.[3]

In spite of this commitment, however, the Law on General Inspectorates has yet to be adopted. Currently, according to ministry by-laws approved by the Prime Minister, each ministry has a designated unit for internal control. These by-laws inherently express the government's political will to have functional internal control mechanisms in place. Based on ministry by-laws, each minister is to approve a special by-law establishing the structure, functions, and responsibilities of the internal control unit. In most cases these institutions are called general inspectorates. In two cases, however, they are referred to somewhat differently as the Internal Audit and Monitoring Service (Ministry of Culture, Monuments Protection, and Sports) and the Internal Control Division (Ministry of Refugees and Placement).

This report analyses the structure, resources, and activities of general inspectorates in Georgia's civilian ministries. The report is based on data obtained through a questionnaire and follow-up interviews with representatives of GI offices from ten civilian ministries. Data from the Tbilisi Mayor's GI unit, which also responded to the survey, is cited for comparison.

---

1 European Neighbourhood Policy. European Union-Georgia Action Plan, Section 5.5. p. 27.

2 OECD, Monitoring of National Actions to Implement Recommendations Endorsed during the Reviews of Legal and Institutional Frameworks for the Fight against Corruption. Monitoring Report – Georgia. Adopted at the 5th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan on 13 June 2006 at OECD Headquarters in Paris. p. 22.

3 The National Anti-Corruption Strategy of Georgia was approved by Presidential Decree #550, dated 24 June 2005. Section 2.5.

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

Deregulated Regulation

Based on the requirements of the National Anti-Corruption Strategy, the government of Georgia designated the launch of a standardised internal control system as a key priority and included preparation of the relevant draft law in its annual plan for legislation for 2005.[4] This task was assigned to the Ministry of Justice, which prepared the draft law and distributed it to the other central government agencies in the summer of 2005.

The draft law outlined the status, functions, objectives, and organisation of the general inspectorates (GIs). The functions, according to the draft law, included: responding to the violation of citizens' rights, supervising the implementation of normative acts, reviewing the manner in which financial and other resources are spent, and promoting discipline and ethical behaviour. The draft also regulated the length of time permissible for an inspection, limiting it to one month (three months in extraordinary cases only). Also, according to the draft, GIs were required to enter every case in a register that details the objectives, timeline, and parties responsible. The draft law also gave internal control institutions the right to establish monitoring boards comprised of representatives of local NGOs, international organizations, and the media.

An attachment to the draft law stipulated that its adoption would have no effect on either budgetary revenues or expenditures. Yet one could argue that the establishment of a functional internal control institution in every ministry would carry with it a significant financial burden (unless, of course, the institution of internal control was strengthened at the expense of other ministry divisions). Indeed, well-functioning GIs could be considered a means for improved mobilisation and more efficient spending of public resources.

The draft law was presented in Parliament but never officially registered, and thus never considered in the committees. MPs disliked the draft law, arguing that it favored restoration of a Soviet-style system of control. By rejecting the initiative, however, Parliament effectively deregulated the internal control system it had previously committed to regulate.

Structure and Autonomy of the General Inspectorates

The oldest GI in Georgia operates within the Ministry of Internal Affairs, where personnel control mechanisms date back to the Soviet period. In the civilian ministries the first GI was established at the then-Ministry of Revenues in 2000; after the Ministries of Revenues and Finance were merged in 2002 this unit became the GI for the Ministry of Finance. Other civilian ministries had weaker internal control mechanisms with a variety of structures and functions. For instance, prior to establishing a single GI unit, the Ministry of Education and Science had three internal control structures with overlapping functions: GI, the Ombudsman's Service, and the Professional Litigation Service.

Since the Law on General Inspectorates was not approved, each ministry continued to operate GIs according to ministry by-laws. This naturally resulted in a diverse array of approaches to GI structure and organisation. During the period that our survey was conducted two main structural forms were functioning. The most common practice was to designate the GI as a structural unit of the ministry that was directly subordinate to the minister. The head of the GI was appointed and dismissed by the minister and his/her rank and salary were consistent with those of a regular department head. The Ministry of Finance had a

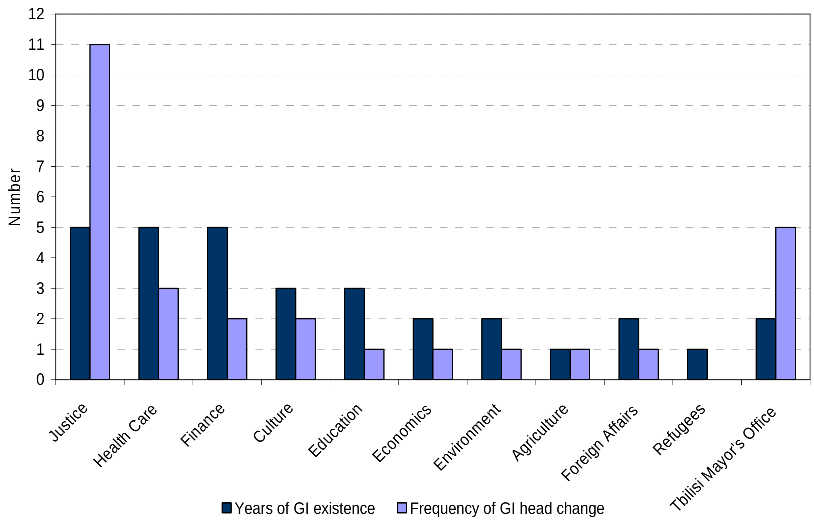
[4] Ordinance of the Government of Georgia #10, 31 January 2005.

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

different approach: here the GI was designated as a subordinate entity (state body). The head of this GI unit was nominated by the minister and appointed by the Prime Minister.[5]

The GIs' functions could also be grouped into two categories. In the civilian ministries the GIs performed auditing and administrative controls but could not initiate investigations. If there was reasonable suspicion of illegal activity, the case would be forwarded to the law enforcement agencies (Prosecutor General, Financial Police, Ministry of Internal Affairs). The law enforcement agencies were expected to notify the GI that had initiated the case as to the measures that were taken in response. In practice, however, according to GI representatives, they were rarely informed about the end results of the cases. In contrast to the civilian ministries, the Interior Ministry, the Prosecutor General, and the Ministry of Defence authorised their respective GIs to carry out investigative procedures. In these cases the GIs themselves investigated the suspected financial and/or administrative offence and pursued the case in court.

Chart 1. Stability of General Inspections



A GI's organisational and functional characteristics largely determine its structural autonomy within a ministry. GIs in the law enforcement agencies are considered "internal police forces" and are highly respected, whereas in the civilian ministries GIs are less visible.

In most ministries the head of the GI changes quite frequently. An extreme case is the Ministry of Justice, where the GI head was changed 11 times in five years (see Chart 1 for comparison). It is common practice for incoming ministers to replace the head of the GI unit. Recently the incoming Ministers of Agriculture and Economic Development replaced their GI unit heads. GI unit employees generally respect this practice and understand that a new minister needs a trusted individual to assume responsibility for control of subordinate structures. In this respect, the Ministry of Finance's GI unit stands out: here, the minister was replaced twice while the GI head remained, since the GI head is appointed by the Prime Minister.

The frequent turnovers in GI leadership and correspondingly unstable environment yielded a rather poor "institutional memory" in the case of most GIs. Another reason for this institutional weakness is that most GIs did not maintain records or reports of their investigations and thus were unable to pass on this information to their successors. In many cases the GI unit heads were able to provide statistics for their own term in office only, claiming that no additional records had been made available to them.

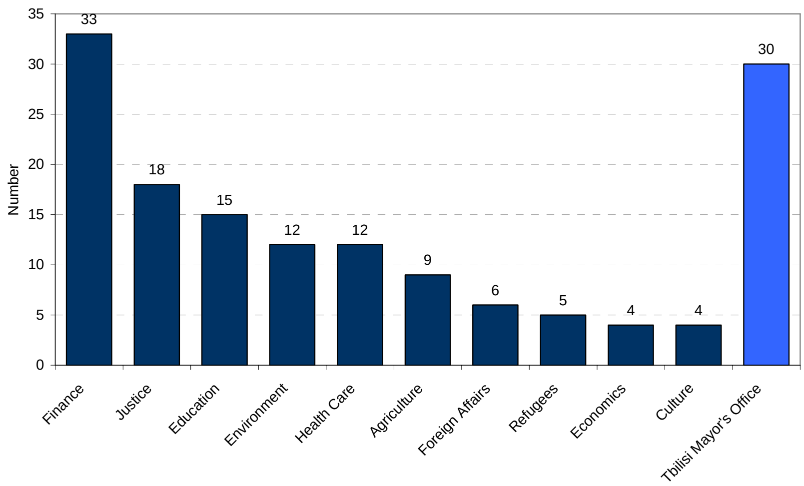
5 Headquarters of the Georgian ministries are comprised of departments and divisions. The broader ministry system, however, includes subordinated entities (also called departments in some cases) and Legal Entities of Public Law. Subordinated entities are established and discontinued by governmental decision. In civilian ministries their heads are nominated by the minister and approved by the Prime Minister.

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

GI Resources

The GI units in almost all the civilian ministries lack the material and human resources to fulfill their responsibilities. The GIs do not have access to funds at their own discretion. Their expenses are included in the ministry's general expenditures. The Tbilisi Mayor's office GI is an exception: its expenditures are detailed in a separate article in the city budget, thus the costs of internal control for the Mayor's office are very explicit. The Ministry of Finance's GI is also exceptional in this regard: it has its own account in the state treasury. Nevertheless, the funds to which the GI has direct access are very limited. In 2006 this GI unit had just 5,000 GEL to work with, and this sum was spent on fuel and stationery. Other expenses, such as salaries, were accounted for in the ministry's general budget.

Chart 2. Employees of General Inspections

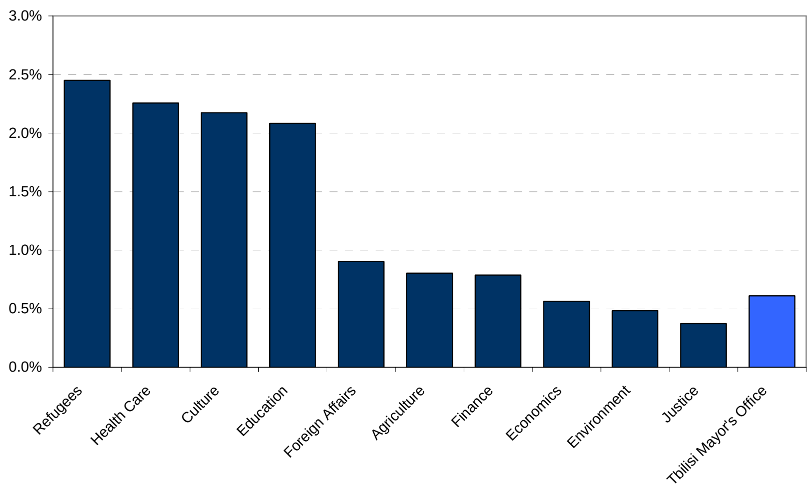


In terms of human resources, most GIs are understaffed. The Ministries of Economic Development and Culture, Sports, and Monuments Protection have the smallest GI units, while the Ministry of Finance has the largest. The Tbilisi Mayor's office employs more staff than any other civilian central government agency but the Ministry of Finance (see chart 2).

But absolute numbers of GI employees provide only partially useful information. Arguably, the size of a GI unit should be determined by two key variables: the total number of ministry employees and the ministry's annual budget. Thus it is also useful to compare GI unit size with total ministry staff size on one hand, and with a ministry's total annual expenditures on the other. In terms of relative numbers of GI employees to total staff, the Ministry of Refugees and Placement occupies the best position: here GI staff members constitute 2.45% of all ministry employees. The smallest GI unit relative to the total staff – just 0.37% -- is at the Ministry of Justice (see Chart 3 for further comparison).

In terms of expenditures and GI size, circumstances at the Ministry of Health, Labour, and Social Protection are the least favourable. This ministry's expenditures are the largest of all the government agencies: 717.3 million GEL in 2006, or 5.5% of the GDP. Its expenditures were increased to 888 million GEL for 2007, reaching 6.1% of the GDP.[6] At the same time, the GI unit's staff size was decreased from 12 (2006) to 8 (2007). As indicated in Chart 4, ministry expenditures per GI

Chart 3. Share of GI Staff in Total Number of Employees (2006)



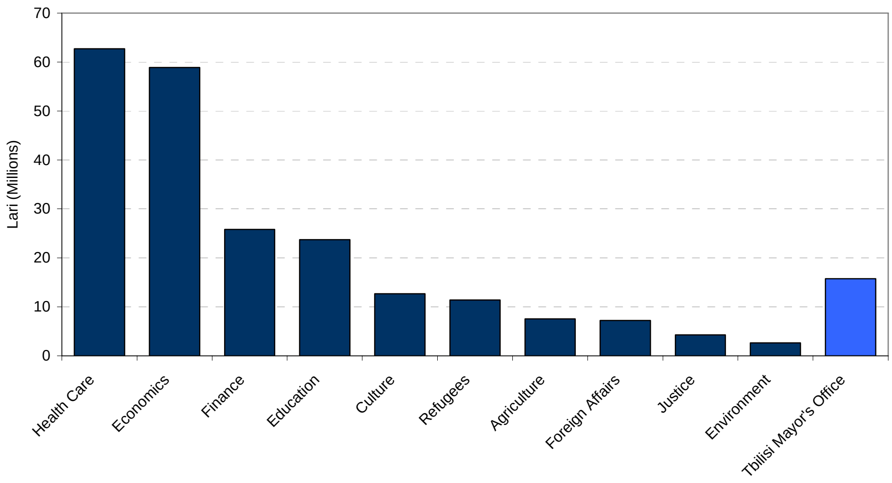
[6] Government of Georgia. Basic Data and Directions for 2007-2010, p. 33.

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

employee ranged from over 62 million at maximum (Ministry of Health, Labour, and Social Protection) to 2.65 million at minimum (Ministry of Environment and Natural Resources).

Most GI unit heads have experience working in law enforcement, for example at the Ministry of Internal Affairs, Security Services, or the Ministry of Justice. Auditing and other financial experience is less common. Many GIs, however, are staffed by personnel with work experience at the Chamber of Control. Only the Ministry of Refugees' GI unit reported having management analysts on staff. This may be because the GIs are primarily occupied with problems of administrative non-compliance within ministry administration, and are rarely called upon to investigate the root problems of management systems. Nevertheless, the ultimate objective of any investigation or audit should be to go beyond individual errors to analyse cases, identify systemic weaknesses, and offer recommendations for preventive measures to the ministry's management. In this respect management analysts could contribute significantly to GI unit activity.

Chart 4. Expenditure per GI Employee (2006)



A GI unit's capacity for specialisation, as reflected in its division of responsibilities, is an important indicator of the efficiency of the unit's human resource management. In this regard the GIs also perform poorly: only two units (the Ministries of Finance and Justice) have divisions specialising in audit, inquiry, and urgent response. Others GIs form inspection teams on an ad hoc basis, in accordance with the task at hand.

GI Activities

Every GI is directly subordinate to the minister and may act with ministerial consent only. A typical GI by-law, approved by the minister, includes the following activities:

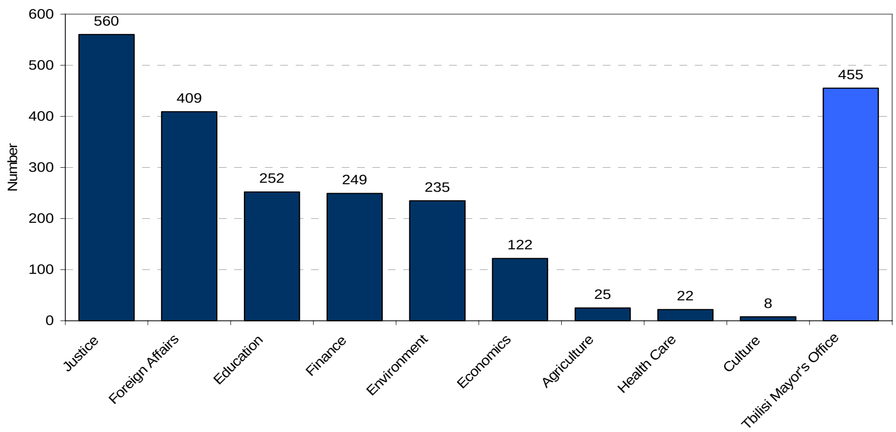
- Supervision of implementation of legal commitments;
- Inspection of activities of ministry employees responsible for provision of services to public;
- Identification of and inquiry into misconduct of ministry civil servants;
- Identification of systemic weaknesses that make legal violations possible;
- Control of targeted use of funding provided to organisations within the ministry;
- Control of enforcement of code of ethics;
- Promotion of discipline and respect of law;
- Preparation of recommendations

Some GI activities are reactive, while others are proactive. Certain activities are anticipated in the Annual Inspection Plans developed by the GIs and approved by the ministers. These inspections focus on civil servants' compliance with legal requirements. The ultimate objective of this kind of internal control is to analyse cases, identify potential loopholes in the administrative and financial structure, and offer suggestions

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

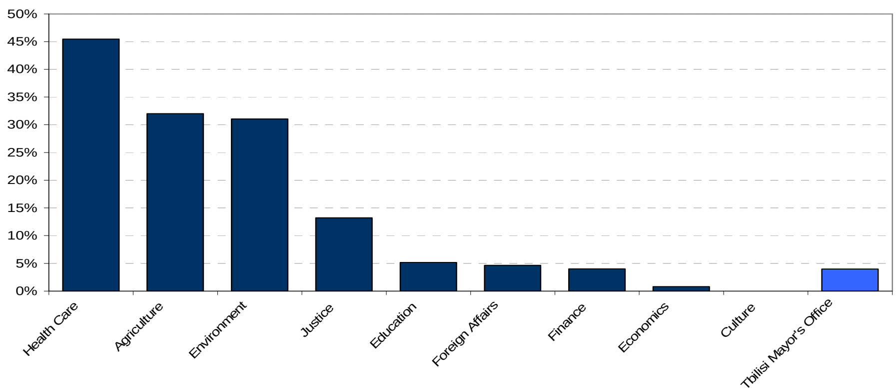
for improved management. But the bulk of GI activity takes place in response to complaints and appeals from ministry employees or citizens. This observation is supported by several findings: first, most GI heads report that they act in response to ministerial instruction only. In many cases these instructions are verbal. According to GI representatives, the urgency of many issues leaves no time for the writing of ministerial orders. Second, half of the interviewed GI heads stated that they do not have an Annual Inspection Plan. They claimed that it was more important to direct their limited human resource capacity towards responding to requests for urgent inspections and periodic ministerial instructions.

Chart 5. Number of Inspection Cases (2006)



The GIs do not have standardised data gathering or analysis procedures. This is one possible explanation for the discrepancy in numbers of inspections reported by the ministries (Chart 5). When asked about their total annual number of inspections, some GIs reported the number of inquiries that were submitted in a written report to the minister. Others, however, reported the total number of requests received (written and received through the hotline). Yet in interviews GI representatives confirmed that a significant share of incoming requests either require action beyond their sphere of competence or contain questionable information.

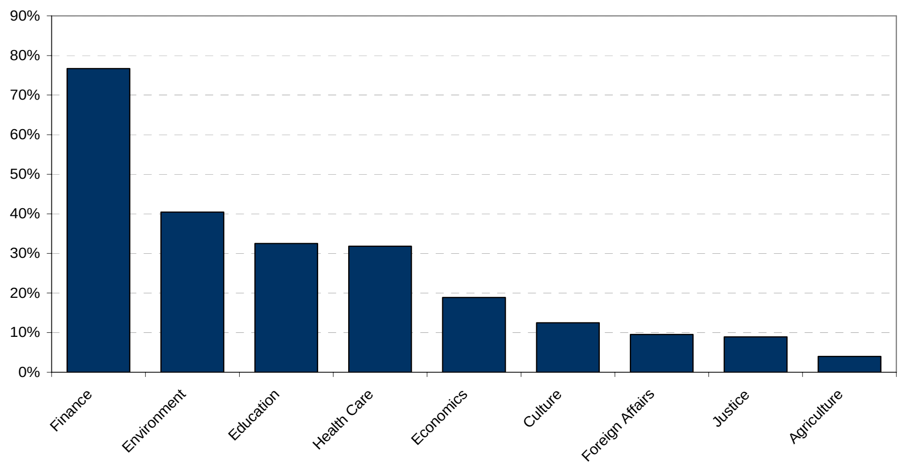
Chart 6. Inspection Cases sent to the Law Enforcment Agencies



In terms of the latter, in some cases the target of the complaint was no longer employed by the ministry, the information supplied was not supported by facts, etc. (see Chart 5 for total number of inspection cases in the ministries).

The survey revealed an interesting pattern: GIs are much more likely to report administrative than financial inspection cases. Some GIs failed to report cases of misuse of public finances entirely.

Chart 7. Inspection Cases with Administrative Sanctions



თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

However, GIs do maintain statistics on cases forwarded to law enforcement agencies for further investigation (Chart 6). The best kept statistics are those pertaining to the number of public servants given disciplinary sanctions (Chart 7). There are two possible reasons for this: first, given that most GI heads come from law enforcement institutions, their focus is naturally on administrative sanctions. Second, a financial audit requires more time and resources than the current GI units can afford. As a result, Georgia's GI units resemble "internal police" more closely than they resemble internal audit institutions.

Another important survey finding is that GIs rarely focus on the efficiency and quality of performance of ministry staff. Just a few GIs reported that their functions include evaluation of financial efficiency; even these failed to provide evidence that they have actually fulfilled this responsibility. Most representatives argued that the task of efficiency and quality assurance belongs to their ministry's sectoral divisions.

Bottom-Up Collective Action

GI employees are aware of the financial and administrative constraints the institution of internal control faces. Most reported that the GIs will perform more effectively if standards of internal control are established and administrative autonomy is increased. Since the legislation fails to establish top-down GI regulations, a bottom-up movement was initiated with the goal of establishing professional standards through independent association. The Association of General Inspectorates was founded in August 2005 and officially incorporated in November 2005. It unites former and current GI employees from the central government agencies. At the time it was established, the association board was comprised of GI heads. Since 2005 several GI heads have lost their positions in the ministries, but they have retained their board membership.

The Association has developed a strategic plan for 2007-2011. During this period it intends to become a strong professional organisation with sufficient material and intellectual resources. Its goal is to promote legally protected structural and financial independence for the GI units while curbing corruption and promoting the rule of law through normative, educational, and research activity.

The strategic directions of the Association are as follows: 1) to develop relations with governmental, non-governmental, and international organisations; 2) to develop fundraising capacities; and 3) to develop revenue-generating services. By the summer of 2007 the Association plans to prepare a draft law on general inspectorates and submit it to the Ministry of Justice for initiation.

Unsurprisingly, this association of weakly institutionalised GIs is not very strong. At this stage it is supported by the American Bar Association, which provides office space, organisational assistance, and expertise. With the ABA's assistance, the Association became an international sister organisation of the Association of Inspectors General, USA. The association is actively seeking new partners both from within the government and from the international community. These partners would cooperate in the interest of promotion and improvement of internal control institutions. The Association's board approved the strategic plan in February 2007. It was officially presented to GI employees and the public on March 6, 2007.

Suggestions for Improvement

From the description provided above, it is evident that Georgia's internal control mechanisms are still far from the targets to which the government has committed. General inspectorates lack professional standards as well as the material and human resources to fulfill their functions. GI employees acknowledge these

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge

challenges and are trying to pursue the necessary reforms by means of a professional association. In order for the institution to work, equal emphasis must be placed on effectiveness and efficiency. On one hand, GI units should be expected to evaluate the administrative and financial activities of civil servants in a timely manner. On the other hand, internal control should not become overly costly. With these provisions in mind, the following actions are recommended:

First, common **procedures and standards** for internal control should be established. This could be achieved through either a legislative act or a formal recognition of the Association as a standard-setting body. These two options are not, however, mutually exclusive: ideally, legislation will establish a general framework and delegate the responsibility of overseeing professional inspection standards to the Association.

Second, internal control should be **decentralised**, as suggested by the GI unit of the Ministry of Education and Science. In this model, the GI unit maintains responsibility for general oversight of internal control and audit but delegates responsibility for many specific issues to the ministry branches. The justification for this is that territorial branches maintain closer ties to educational institutions and to the beneficiaries of education policy. Further, delegating functions—particularly those requiring responses to complaints and appeals—to local branches will make GI activities more cost-effective. A similar approach could be taken in the other ministries. The decentralisation of internal audit and control, however, requires the introduction of rigorous audit standards and trainings for personnel as well as a greater oversight capacity within the GI units.

Third, **contracting out** could make internal control systems more effective and efficient. This is especially important in the current environment of government restructuring, in which the number of ministries is decreasing and each ministry is comprised of a variety of subordinate agencies responsible for sectoral regulations and services. A single GI unit cannot oversee all the activities in every organisation under a ministry's auspices. Therefore it is recommended that GIs be granted the right to contract short-term consultants to carry out inspections in designated areas. Given that they employ lawyers and economists almost exclusively, for example, the GIs are hardly equipped to inspect activities pertaining to biodiversity (Ministry of Environment), special education (Ministry of Education), or transportation (Ministry of Economic Development).

Most importantly, GIs' functions should be defined within the general context of governance reform. Above all, the government must determine the ideal size for the public sector and the ideal role of the state in regulating various fields. After that the task of identifying the role of general inspectorates will be much more feasible. The government's current strategy for deregulation and privatisation should optimise the size of the civil service and increase the role of the private sector in formerly state-managed sectors. This will help to focus GI responsibilities and streamline resources and facilitate a more active role for GIs in the promotion of lawful public spending and the provision of quality public services.

Acknowledgements:

Transparency International Georgia would like to thank the following individuals: Levan Gegeshidze, President of Georgian Association of General Inspections, Ani Morgoshia and Matthew Reger of the American Bar Association/CEELI. TI Georgia is also grateful to the participants of our survey - general inspectorates from the following ministries: the Ministry of Agriculture, the Ministry of Culture, Sports, and Monument Protection, the Ministry of Economic Development, the Ministry of Education and Science, the Ministry of Environment and Natural Resources, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Health, Labour, and Social Protection, the Ministry of Justice, and the Ministry of Refugees and Accommodation. We also thank the General Inspectorate of the Tbilisi Mayor's Office.

თბილისი 0108, რუსთაველის გამზ. 26, III სართ. • 26, Rustaveli Avenue, Third Floor, Tbilisi 0108, Georgia
ტელეფონი/Phone: + (995 32) 92 14 03; 99 93 35; 93 21 29 • ფაქსი/Fax: + (995 32) 92 02 51
ელ-ფოსტა/E-mail: info@transparency.ge • www.transparency.ge