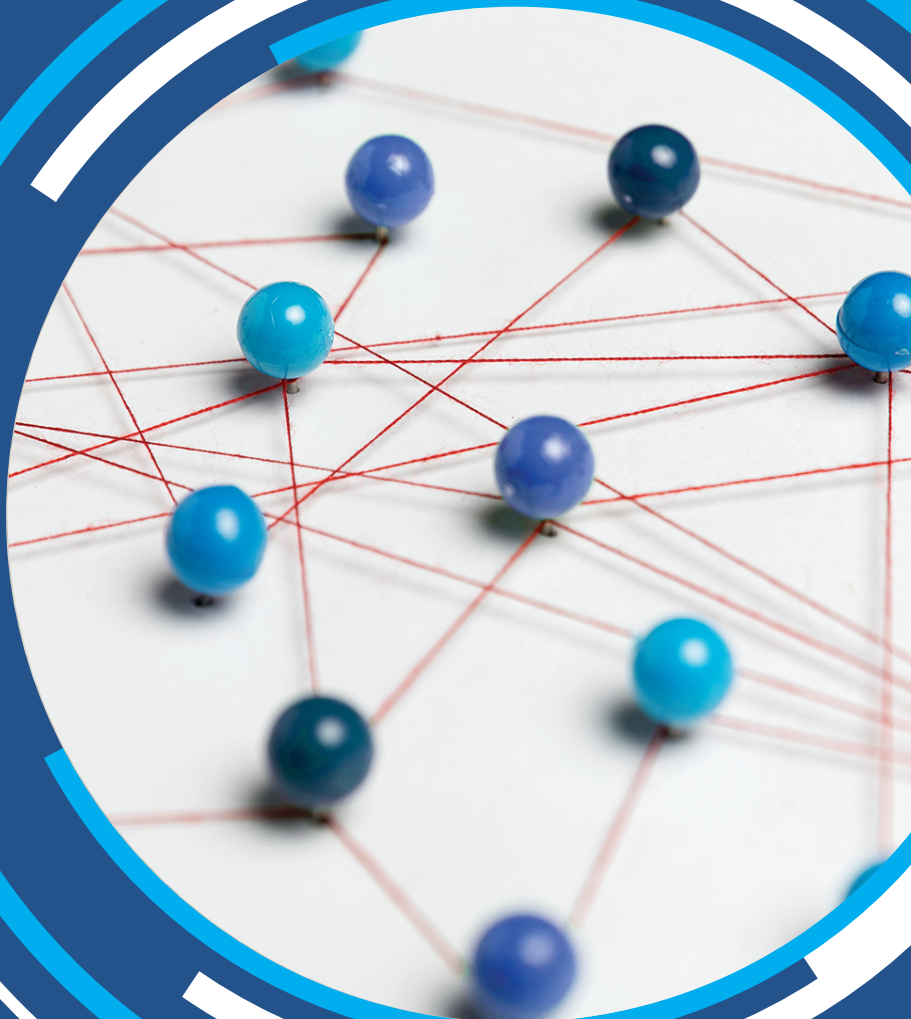




GEORGIA NATIONAL INTEGRITY SYSTEM ASSESSMENT

2020

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Norwegian Ministry
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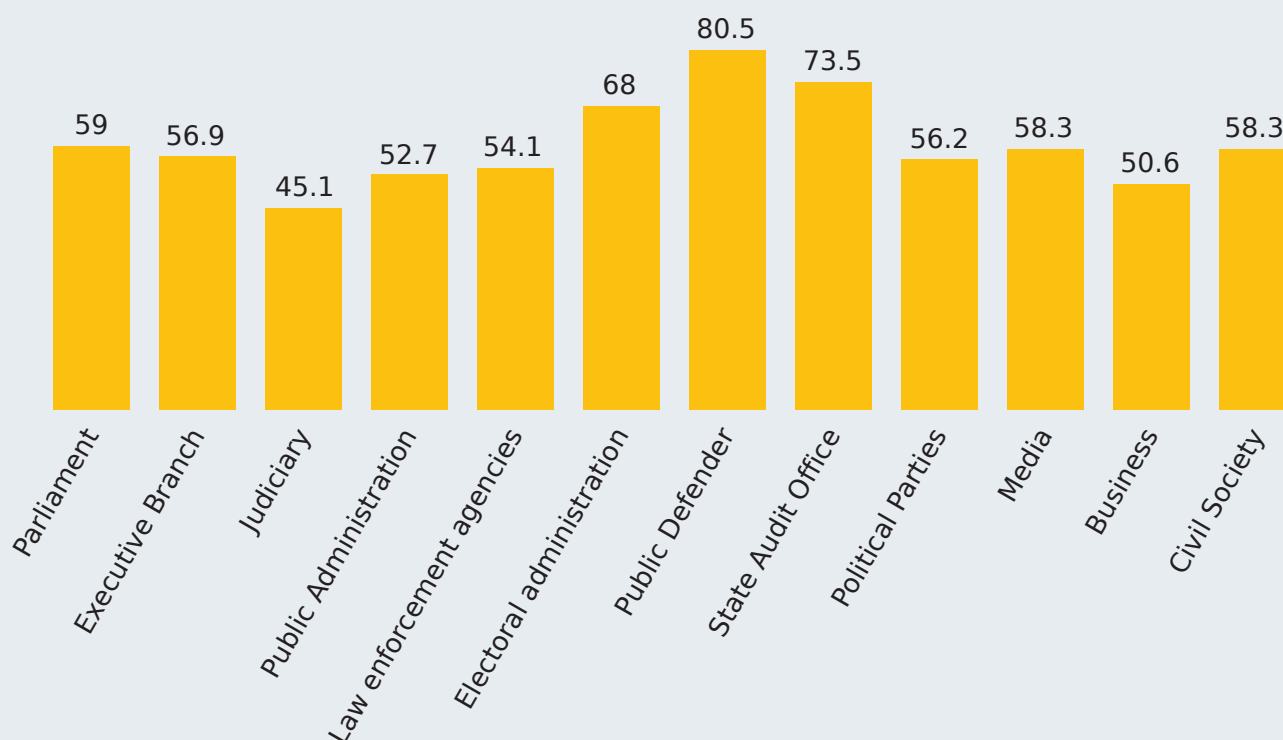
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EXECUTIVE SUMMARY

The NIS approach is based on the presumption that preventing corruption and promoting good governance in a country requires effective operation of all key institutions. According to this assessment, only three of Georgia's 12 NIS institutions have a high or relatively high final score: the Public Defender, the State Audit Office, and the Electoral Administration. This result points to significant problems in terms of combating corruption and for democracy in general.

GEORGIAN NATIONAL INTEGRITY SYSTEM 2020



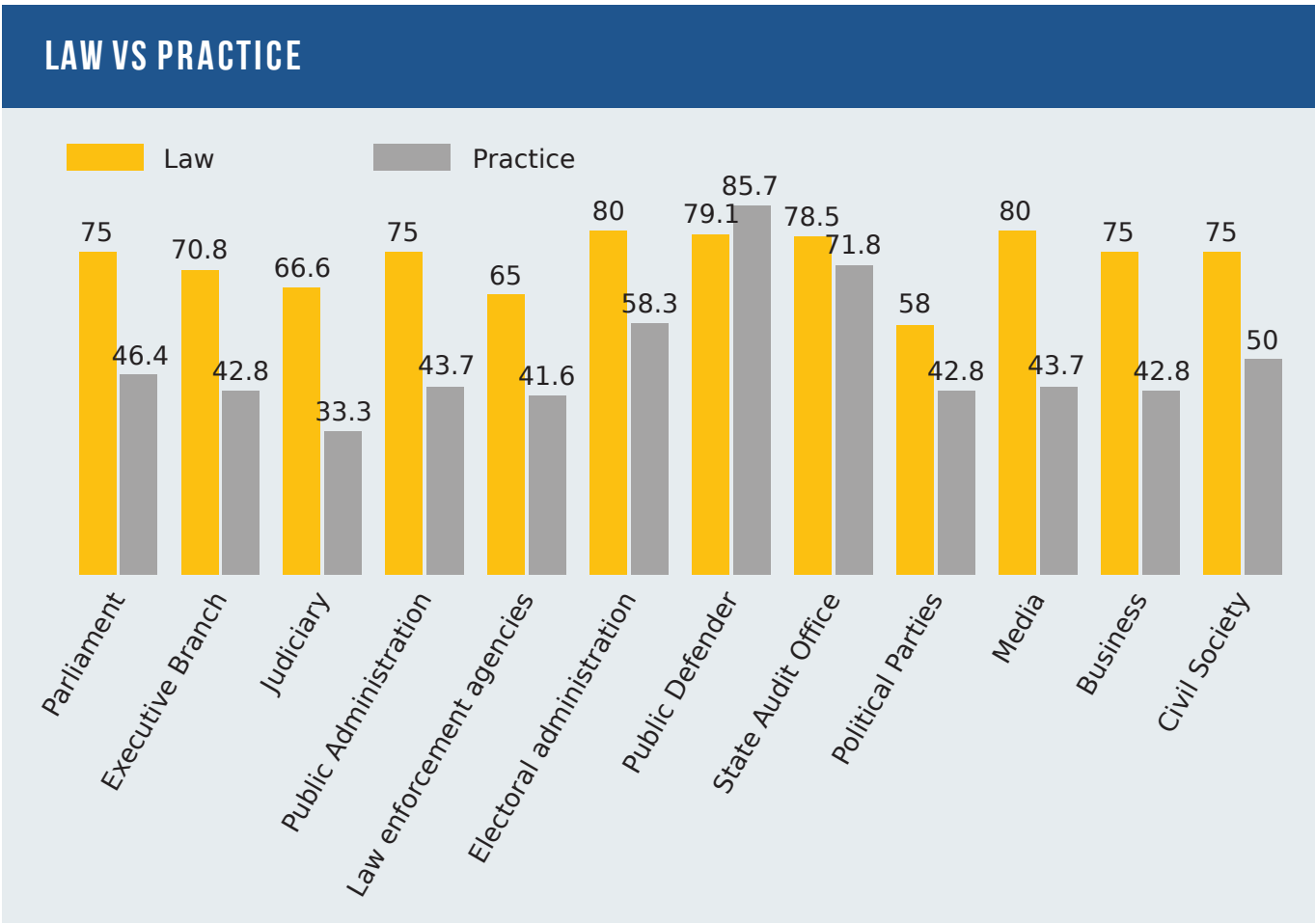
NIS institution final scores

The weakness of the legislature and the judiciary reduces their ability to exercise effective oversight of the government's and the law enforcement agencies' activities. The legislature's and the judiciary's problems, meanwhile, stem largely from an extremely high degree of the concentration of power and the ruling party's almost total control over a majority of public institutions. This state of affairs is linked largely to low political competition which is caused by the ruling party's privileged access to resources, as well as the inability of the State Audit Office and the law enforcement agencies to deal effectively with violations of campaign financing rules and voter bribing. Political competition is also undermined by the growing pressure from the authorities on the media and business.

Law and practice

The final scores of the institutions reflect the results of the analysis of both the practice of these institutions and of the legal framework governing their operation. Meanwhile, if we look at the results of the assessment of the practice and the law separately, we will see that, in a

majority of the institutions, the average score for practice is significantly lower than the average score for law, which indicates that the actual effectiveness of the institutions is lower than their total scores may suggest.

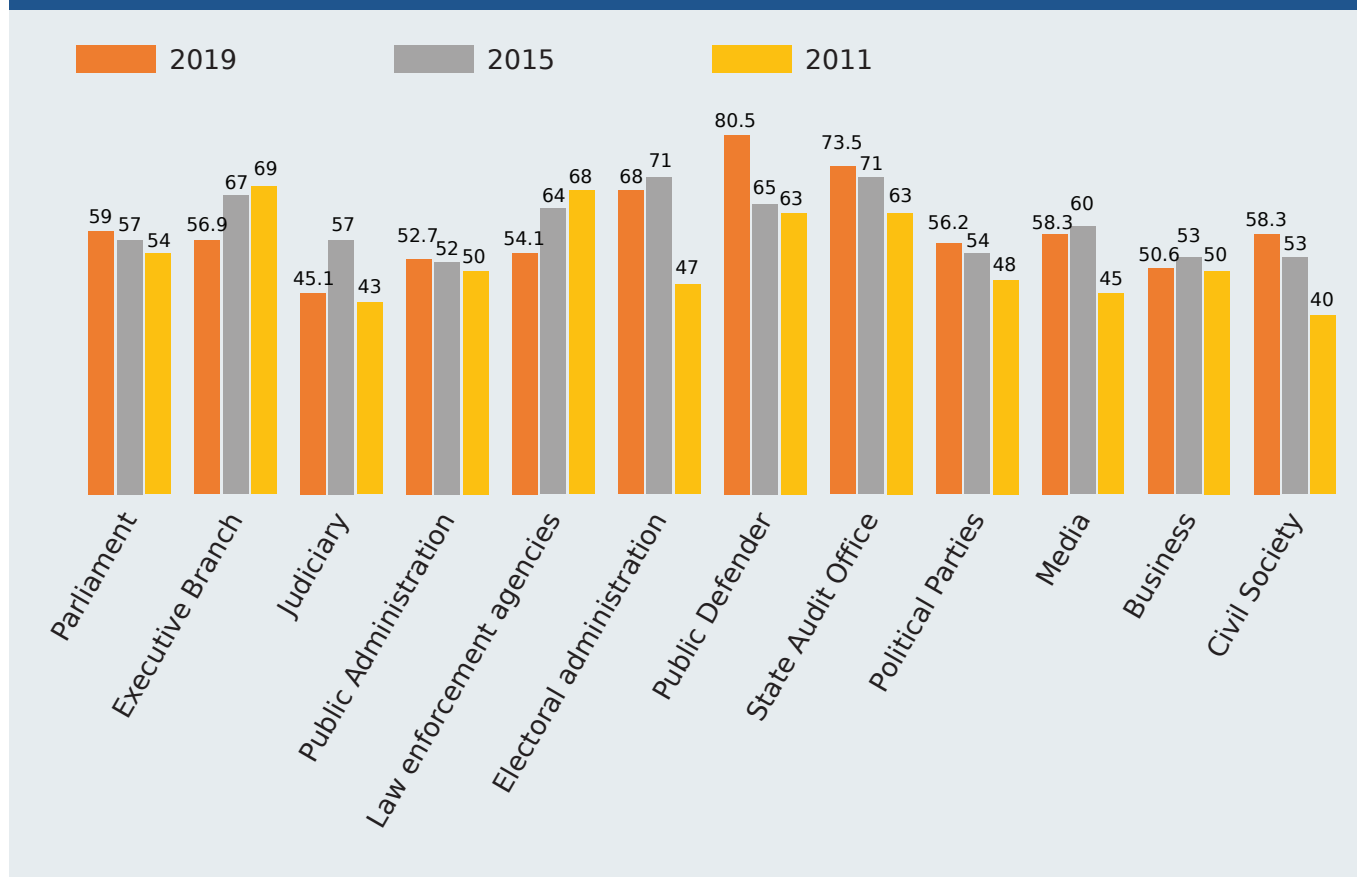


NIS institution's average scores for law and practice

Changes since 2015

Previous Georgian NIS assessments were published in 2011 and 2015. Compared with 2015, the total scores of the Government, the judiciary, and the law enforcement agencies have decreased significantly, while only the Public Defender has made significant progress.

NIS 2019, 2015, 2011



NIS Institutions: main trends

The level of the **Parliament's** independence is low in practice and parliamentary oversight of the executive branch is therefore weak. The Parliament does not devote sufficient attention to improving anti-corruption legislation, while violations of anti-corruption legislation committed by the Parliament's members are rarely addressed effectively. The legal framework governing the Parliament's activities is mostly sound but the legislature does not utilize its legal powers effectively enough.

The Georgian **Executive Branch** is not independent in practice due to informal external influence over its activities. The legal framework contains important provisions designed to prevent conflict of interest and corruption in the government but these provisions are often not enforced in practice and possible cases of corruption in the government are not investigated. The government does not engage in sufficient efforts to establish an independent civil service and to combat corruption in public administration.

Despite important positive changes in the legislation, the **judiciary** is not independent in practice: External actors wield undue influence over the judiciary, while, within the judiciary, a single group (the so-called clan) exerts pressure on other judges. Some important decisions in the judiciary, including judicial appointments, are made through an opaque process. The accountability of judges for possible violations of the law (including possible cases of corruption) is not ensured. Rulings passed by judges often lack reasoning.

The legal framework governing the **public administration's** activities contains important provisions designed to ensure its independence, transparency, accountability and integrity. However, the public administration is not independent in practice due to undue political in-

fluence over its activities, while the level of transparency is uneven across the public administration. The enforcement of the legislative provisions designed to prevent corruption in the public administration is weak. Despite positive reforms, significant corruption risks persist in the public procurement system.

The level of independence of the **law enforcement agencies** is low in practice due to the undue partisan and informal influence on their activities. The accountability of the law enforcement agencies is not ensured either: The possible violations and crimes committed by their employees and officials (including possible cases of corruption) are often not addressed effectively. Due to their low level of independence, the law enforcement agencies are incapable of effectively investigating possible cases of high-level corruption.

The **State Audit Office** is a transparent institution which works actively to review the spending of public funds. However, public agencies frequently fail to implement the State Audit Office's recommendations. Also, the State Audit Office's monitoring of political party finance is ineffective, especially during electoral campaigns.

The **electoral administration** mostly performs well in terms of organizing elections, although there are significant shortcomings in terms of the professionalism of PEC members. Some of the electoral administration's decisions raise questions regarding its independence. In recent years, there have been possible cases of favouritism and nepotism in the selection of PEC and DEC members.

The **Public Defender's** activities are characterized by a high degree of independence and transparency. The Public Defender is effective both in terms of responding to possible violations of human rights and in terms of preparing recommendations designed to improve the state policy on human rights and the operation of public institutions. However, public officials have engaged in aggressive verbal attacks against the Public Defender, while radical groups have made threats against the Public Defender. Public agencies do not always follow the legal requirement to collaborate with the Public Defender and to assist the Public Defender's work, while also frequently failing to follow the Public Defender's recommendations.

Georgian legislation ensures that establishment and registration of **political parties** is simple. However, major inequality between the ruling party and the opposition parties in terms of resources reduces political competition. Instances of violence against the members and activists of opposition parties are often not addressed effectively, while the law enforcement agencies and the courts sometimes apply the law selectively against representatives of opposition parties. The financing of political parties is largely transparent in practice but ruling party's accountability is not ensured: There is often no effective response to the possible violations of the financing rules. Internal democratic governance procedures of the parties are weak and so is their link with the broader public.

The law creates favourable conditions for the operation of the **media**. However, due to political influence, the level of editorial independence is low in most of the influential media (including the Public Broadcaster) in practice. The justice and law enforcement systems are being used to change the owners of the media that are critical of the authorities or to exert pressure on such media. There are frequent cases of intimidation of journalists, as well as unlawful interference in and obstruction of their work, and the authorities do not respond to these as they are required to do by the law. There are also frequent violations of journalist ethics norms, as well as deliberate dissemination of disinformation via social media - inter alia, by groups linked with the authorities. Political influence and polarization are reducing the ability of the media to provide citizens with reliable information about the government's work and political events. A majority of the media face significant problems in terms of stable long-term access to resources (especially funding).

The legal framework ensures simplicity of establishing **civil society** organizations and their independence. NGOs work actively to ensure the government's accountability. However, the authorities often fail to devote sufficient attention to CSO research and recommendations. Moreover, Government and ruling party members often resort to aggressive verbal attacks against the civil society. The authorities have organized disinformation campaigns against CSO members. The funding of CSOs is not sufficiently diversified and they depend almost entirely on foreign donor support.

The law ensures simplicity of **business** registration and establishes a favourable environment for businesses to operate. However, in some cases, the authorities have exerted politically motivated pressure on business. Transparency of beneficial ownership of companies is not ensured. The involvement of business in anti-corruption policy is weak. Weak links between business and civil society impede implementation of joint initiatives (including anti-corruption initiatives).

Current challenges and essential reforms

Weak checks and balances are currently the primary challenge of the Georgian NIS. This is the result of the insufficiently competitive political environment and the undue partisan and informal influence on the system's main institutions.

The efforts to strengthen the NIS must, therefore, focus in the coming years on ending this undue influence and promoting political competition. This will create favourable conditions for genuine independence of the system's main institutions and their effective operation.

The report's final chapter contains detailed recommendations for every institution. At the same time, it is possible to highlight a number of reforms which must be implemented as promptly as possible in order to overcome the main challenges of Georgia's national integrity system and promote the country's democratic development:

- In order to reduce the concentration of power and end the informal influence on public institutions, it is necessary to promote political competition, inter alia, through the reform of the electoral system.
- Enforcement of the legislative provisions designed to prevent conflict of interest and corruption in public administration must improve, which requires establishment of an effective system for detecting the violations of these provisions and responding to them.
- Since the existing law enforcement system is incapable of investigating the cases of high-level corruption effectively, Georgia must establish an independent anti-corruption agency that will be protected from any type of undue interference in its activities. It could be a multi-functional agency, combining the investigative role with corruption prevention and policy planning roles.
- In order to establish a genuinely independent and professional civil service, the government must refrain from any type of undue interference in the work of civil servants and must ensure that employment and promotion in public administration are based exclusively on the professional criteria established by the law.
- The so-called clan's influence must be eliminated in the judiciary, which requires the dismissal of its members from the system.
- The authorities must refrain from any kind of pressure on the media and nongovernmental organizations, cease the attempts to discredit members of civil society and the disinformation campaigns against nongovernmental organizations.

INTRODUCTION: ABOUT NIS ASSESSMENT

The National Integrity System (NIS) assessment offers an evaluation of the principle institutions of governance responsible for enhancing integrity and preventing corruption in a country.

A well-functioning NIS safeguards against corruption and contributes to the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. Corruption undermines good governance, the rule of law and fundamental human rights. However, when the NIS institutions are characterized by appropriate regulations and accountable behavior, corruption is less likely to thrive, with positive knock-on effects for the goals of good governance, the rule of law and protection of fundamental human rights. Strengthening the NIS promotes better governance across all aspects of society and, ultimately, contributes to a more just society overall.

The purpose of conducting the assessment in Georgia is to gather a strong evidence base about the state of governance in the country and to contextualize the performance of different sectors with regards to their abilities to support just and democratic rule. Not only does this study highlight specific areas in which reform is needed, it also provides a starting point for further evidence-based research and advocacy. The assessment may also be used as a benchmarking tool to measure progress over time and to compare performance across institutions.

The Georgia NIS country report addresses 12 institutions:

- Parliament
- Government
- Judiciary
- Public Administration
- Law Enforcement Agencies
- Electoral Administration
- Public Defender
- State Audit Office
- Media
- Civil Society
- Political Parties
- Business

Each of these 12 institutions is assessed along three dimensions that are essential to its ability to prevent corruption: First, its overall **capacity** in terms of resources and legal status, which underlies any effective institutional performance. Second, its internal **governance** regulations and practices, focusing on whether the institution is transparent, accountable and acts with integrity, all crucial elements to preventing the institution from engaging in corruption. Thirdly, the extent to which the institution fulfils its assigned **role** in the anti-corruption system, such as providing effective oversight of the government (for the legislature) or prosecuting corruption cases (for the law enforcement agencies). Together, these three dimensions cover the institution's ability to act (capacity), its internal performance (governance) and its external performance (role) with regard to the task of fighting corruption.

Each dimension is measured by a common set of indicators. The assessment examines both the legal framework of each pillar as well as the actual institutional practice, thereby highlighting discrepancies between the formal provisions and reality on the ground. In order to take account of important contextual factors, the evaluation is embedded in a concise analysis of the overall political, social, economic, and cultural conditions in which these governance institutions operate.

Dimension	Indicators (<i>law, practice</i>)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	<i>Between one and three indicators specific to each institution</i>

The assessment does not seek to offer an in-depth evaluation of each pillar. Rather, it seeks breadth, covering all relevant pillars across a wide number of indicators in order to gain a view of the overall system. The assessment also looks at the interactions between institutions to understand why some are more robust than others and how they influence each other. The NIS presupposes that weaknesses in a single institution could lead to serious flaws in the entire system. Understanding the interactions between pillars also helps to prioritize areas for reform.

Methodology

The NIS assessment is a qualitative research tool based on a combination of desk research and in-depth interviews. A final process of external validation and engagement with key stakeholders ensures that the findings are as relevant and accurate as possible before the assessment is published.

The assessment is guided by a set of “indicator score sheets” developed by the TI Secretariat during the changes introduced to the NIS methodology in 2008. The sheets consist of a “scoring question” for each indicator, supported by further guiding questions and scoring guidelines. For example:

Sample indicator score Sheet: Judiciary, capacity - resources (practice)	
Scoring question	To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?
Guiding questions	<i>Is the budget of the judiciary sufficient for it to perform its duties? How is the judiciary's budget apportioned? Who apportions it? Is the judiciary apportioned a minimum percentage of the general budget? In practice, how are salaries determined (by superior judges, constitution, law)? Are salary levels for judges and prosecutors adequate or are they so low that there are strong economic reasons for resorting to corruption? Are salaries for judges roughly commensurate with salaries for practising lawyers? Is there generally an adequate number of clerks, library resources and modern computer equipment for judges? Is there stability of human resources? Do staff members have training opportunities? Is there sufficient training to enhance a judge's knowledge of the law, judicial skills including court and case management, judgment writing and conflicts of interest?</i>
Minimum score (0)	The existing financial, human and infrastructural resources of the judiciary are minimal and fully insufficient to effectively carry out its duties.
Mid-point score (50)	The judiciary has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.
Maximum score (100)	The judiciary has an adequate resource base to effectively carry out its duties.

The guiding questions for each indicator were developed by examining international best practices, existing assessment tools for the respective pillar as well as using TI's own experience, and by seeking input from international experts on the respective institution.

To answer the guiding questions, the assessment relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts. Secondary sources included trusted reports by national civil society organizations and authoritative international organizations.

The scoring system

While the NIS is a qualitative assessment, numerical scores are assigned in order to achieve a macro perspective, promote a view of the interactions across institutions and help highlight key weaknesses and strengths of the integrity system. The sheer length of the report can obscure a holistic perspective. Thus, the scores are a way to see all 12 institutions, each

assessed according to 12 or more indicators, as if from an aerial viewpoint. They prevent the reader from getting lost in the details and promote reflection on the system as a whole, rather than focusing only on its individual parts.

The scores are assigned by an in-country researcher on a 5-point scale in 25-point increments (0, 25, 50, 75, 100). Indicator scores are averaged at the dimension level, and the three dimension scores are averaged to arrive as the overall score. The difference in practice versus law can also be calculated both at the individual indicator level and for an institution as a whole. The scores are not suitable for cross-country rankings or other quantitative comparisons due to differences in data sources applying the NIS methodology and the absence of an international review board tasked to ensure comparability of scores.

Consultative approach and validation of findings

The NIS assessment process in Georgia had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate valid evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives.

As part of the consultative approach, the report's chapters were shared with the relevant institutions. Wherever those institutions provided their comments to TI Georgia, they were incorporated in the report's final version to the extent that it was possible. The final version of the report was also reviewed by the Advisory Group which TI Georgia established specifically for this purpose. The group's members were:

- Maia Mikashavidze
- Mikheil Benidze
- Giorgi Mshvenieradze
- Giorgi Kldiashvili

At the same time, TI Georgia is solely responsible for the final content of the report.

The report includes information about the relevant institutions as of March 2020.

Background and history of the NIS approach

The concept of a "National Integrity System" originated within the TI movement in the 1990s as TI's primary conceptual tool of how corruption could be best fought, and, ultimately, prevented. The focus on "integrity" signified the positive message that corruption can indeed be defeated if integrity reigns in all relevant aspects of public life. It made its first public appearance in the 1997 TI Sourcebook, which sought to draw together those actors and institutions which are crucial in fighting corruption, in a common analytical framework, called the "National Integrity System". The Sourcebook suggested the use of 'National Integrity Workshops' to put this framework into practice.

In the early 2000s, TI developed a basic research methodology to study the main characteristics of actual National Integrity Systems in countries around the world. In 2008, TI engaged in a major overhaul of the research methodology, adding two crucial elements – the scoring system as well as consultative element. The latter consists of an advisory group and the National Integrity Workshop, which had been part of the original approach.

The NIS approach is an integral component of TI's overall portfolio of research tools which measure corruption and assess anti-corruption efforts. By offering an in-depth country-driven diagnosis of the main governance institutions, the NIS' main aim is to provide a solid evidence-base for country-level advocacy actions on improving the anti-corruption mecha-

nisms and their performance. It is complemented by other TI tools, which are geared more towards raising public awareness of corruption and its consequences through global rankings (e.g. Corruption Perception Index, Bribe Payers Index) or through reporting the views and experiences of the public (e.g. Global Corruption Barometer). In addition, the NIS approach fills an important gap in the larger field of international governance assessments, which are dominated by cross-country rankings and ratings (e.g. Global Integrity Index, Bertelsmann Transformation Index), donor-driven assessments (which are rarely made public) and country-specific case studies, by offering an in-depth yet systematic assessment of the anticorruption system which is based on a highly consultative multi-stakeholder approach. This combination of being driven by an independent local civil society organization, involving consultations with all relevant stakeholders in-country, and being integrated into a global project architecture (which ensures effective technical assistance and quality control) makes the NIS approach unique.

TI Georgia published previous NIS assessments in 2011 and 2015.

COUNTRY PROFILE: FOUNDATIONS OF THE NATIONAL INTEGRITY SYSTEM

POLITICAL-INSTITUTIONAL FOUNDATIONS

Score: 50

To what extent are the political institutions in the country supportive to an effective national integrity system?

Problems in terms of the operation of political institutions are a significant obstacle to the establishment of an effective national integrity system in Georgia.

According to the Georgian Constitution, Georgia is a state based on the rule of law which “recognizes and protects the universal human rights and freedoms.”¹ Georgian citizens have the right to establish political parties and participate in elections.²

In practice, according to Freedom House, Georgia is in the “partly free” group of countries. The organization has noted that “oligarchic actors” have significant influence on politics, while politicization undermines rule of law.³ Former Prime Minister Bidzina Ivanishvili’s informal influence on public institutions is an important impediment to democratic functioning.⁴ Transparency International’s 2019 Corruption Perceptions Index also highlights the problems of state capture and undue influence over public institutions.⁵

According to the OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR), the elections held in Georgia in recent years have been free and competitive overall, although there have been significant problems in terms of the misuse of administrative resources, the ruling party’s dominance in the electoral administration, and pressure on voters. There have been some cases of violence, while the ruling party has enjoyed major advantage in terms of campaign funding.⁶

According to Freedom House, the judiciary remains the “Achilles’ heel” of Georgia’s democratic transition.⁷ The judiciary’s problems include political influence on courts and the lack of transparency and professionalism. The right to due process guaranteed by the law is not always respected in practice.⁸

1 The Georgian Constitution, 24 August 1995, Article 4.

2 Ibid., Articles 24-25.

3 Freedom House, *Freedom in the World, Georgia*, <https://freedomhouse.org/report/freedom-world/2019/georgia>

4 Freedom House, *Nations in Transit 2018*, <https://www.justice.gov/eoir/page/file/1060116/download>

5 Transparency International, *CPI 2019: Eastern Europe and Central Asia*, 23 January, 2019, https://www.transparency.org/news/feature/cpi_2019_europe_central_asia

6 OSCE ODIHR, *Georgia Parliamentary Election 2016 - Election Observation Mission Final Report*, 3 February 2016; OSCE ODIHR, *Georgia Local Elections 2017 - Election Observation Mission Final Report*, 23 February 2018; OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019.

7 Freedom House, *Nations in Transit 2018*, <https://www.justice.gov/eoir/page/file/1060116/download>

8 Freedom House, *Freedom in the World, Georgia*, <https://freedomhouse.org/report/freedom-world/2019/georgia>

SOCIO-POLITICAL FOUNDATIONS

Score: 50

To what extent are the relationships among social groups and between social groups and the political system in the country supportive to an effective national integrity system?

Georgia faces significant challenges in terms of the representation of the citizens' interests, women's political representation, and integration of the minorities.

The link between the political parties and society is weak. Party membership is not common among citizens, while parties are characterized by a hierarchical structure where the party leader possesses total power.⁹ According to one survey, only 10% of the citizens trust political parties.¹⁰

The strongest part of civil society is made up by professional NGOs which monitor the government's activities. Recent years have seen the emergence of civil activist groups focusing on the fight against corruption, women's rights, environment protection, and liberalization of the policy on drugs.¹¹ Developing ties with the broader public remains a challenge for NGOs, while the culture of volunteerism is still weak, although multiple organizations employ volunteers.¹² Professional unions have been growing stronger and more active in recent years.¹³

Women are underrepresented in the political system. For example, only 16% of Parliament members are women.¹⁴ The situation has been improving for ethnic minorities, especially in the cities, but they still face obstacles in terms of the integration in politics, the education system, and the labour market.¹⁵ Discrimination based on sexual orientation and gender identity remains a problem.¹⁶

Freedom of religion is guaranteed by the constitution,¹⁷ although the Orthodox Church has a dominant position in practice and receives significant funding from the state.¹⁸

9 Bertelsmann Stiftung, *BTI 2018, Georgia Country Report*,
<https://www.bti-project.org/en/reports/country-reports/detail/itc/geo/ity/2018/itr/pse/>

10 <https://caucasusbarometer.org/en/cb2017ge/TRUPPS/>

11 Nations in Transit 2018, 6-7

12 CSO Sustainability Index 2018, 96

13 Bertelsmann Stiftung, *BTI 2018, Georgia Country Report*,
<https://www.bti-project.org/en/reports/country-reports/detail/itc/geo/ity/2018/itr/pse/>

14 Georgian Young Lawyers' Association, *Women in Georgian Politics*, 2017,
<https://gyla.ge/files/news/2008/Women%20in%20Georgian%20Politics.pdf>

15 Bertelsmann Stiftung, *BTI 2018, Georgia Country Report*,
<https://www.bti-project.org/en/reports/country-reports/detail/itc/geo/ity/2018/itr/pse/>

16 The Georgian Public Defender, *The Georgian Public Defender's Report on Situation in Georgia in Terms of Protection of Human Rights and Freedoms*, 2018,
<http://ombudsman.ge/res/docs/2019042620571319466.pdf>

17 The Georgian Constitution, Article 16.

18 Bertelsmann Stiftung, *BTI 2018, Georgia Country Report*,
<https://www.bti-project.org/en/reports/country-reports/detail/itc/geo/ity/2018/itr/pse/>

SOCIO-ECONOMIC FOUNDATIONS

Score: 50

To what extent is the socio-economic situation of the country supportive to an effective national integrity system?

Despite a positive dynamic, Georgia faces significant problems in terms of economic development, unemployment, poverty, and inequality.

According to the World Bank, Georgia is among the group of upper middle-income countries.¹⁹ Georgia's GDP has grown by an average of 4.5% annually over the last decade and was \$4,722 per capita in 2018.²⁰

Poverty has been in decline for years. However, according to 2018 data, 20.1% of the population still lives below the absolute poverty line.²¹ The official unemployment figure was 12.7% in 2018,²² although, according to a 2019 survey, 59% of the respondents do not consider themselves to be employed.²³

The poverty and development figures vary significantly between regions. Poverty is especially widespread in rural areas, which has a negative impact on inclusiveness and social mobility.²⁴ Although 38% of the workforce is employed in agriculture, the sector only accounts for 6.9% of the gross domestic output.²⁵

Georgia's score of 0.780 in the 2017 Human Development Index report placed the country in the high development category. However, the score falls to 0.682 when adjusted for inequality.²⁶ Georgia's Gini coefficient was 37.9 in 2017.²⁷

19 The World Bank, *World Bank Country and Lending Groups*, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>

20 The World Bank, *The World Bank in Georgia*, <https://www.worldbank.org/en/country/georgia/overview#1> ; The Georgian National Statistics Service, Gross domestic output, <https://www.geostat.ge/ka/modules/categories/23/mtliani-shida-produkti-mshp>

21 The Georgian National Statistics Service, living standards, <https://www.geostat.ge/ka/modules/categories/192/tskhovrebis-done>

22 The Georgian National Statistics Service, employment and unemployment, <https://www.geostat.ge/ka/modules/categories/38/dasakmeba-da-umushevroba>

23 NDI: Public Attitudes in Georgia, April 2019, <https://caucasusbarometer.org/en/na2019ge/HAVEJOB/>

24 Bertelsmann Stiftung, *BTI 2018, Georgia Country Report*, <https://www.bti-project.org/en/reports/country-reports/detail/itc/geo/ity/2018/itr/pse/>

25 The Georgian National Statistics Service, GDP, <https://www.geostat.ge/ka/modules/categories/23/mtliani-shida-produkti-mshp>

26 UNDP, *Human Development Indices and Indicators: 2018 Statistical Update, Briefing note for countries on the 2018 Statistical Update, Georgia*, <http://hdr.undp.org/sites/default/files/Country-Profiles/GEO.pdf>

27 The World Bank, *GINI index (World Bank estimate)*, <https://data.worldbank.org/indicator/SI.POV.GINI>

SOCIO-CULTURAL FOUNDATIONS

Score: 50

To what extent are the prevailing ethics, norms and values in society supportive to an effective national integrity system?

The level of mutual trust in society is low, although a vast majority of the citizens view corruption and fraud negatively.

Georgian society is characterized by low level of trust between people: According to the 2017 Caucasus Barometers survey, only 7% of the respondents fully shared the view that most people can be trusted.²⁸

According to the World Values Survey, a large majority of the people surveyed in Georgia (87.9%) believe that accepting a bribe is never justified, while 78% think that tax evasion is never justified and 67% think the same about receiving government aid which one is not entitled to.²⁹

28 CRR, Caucasus Barometer 2017, Georgia,
<https://caucasusbarometer.org/en/cb2017ge/GALLTRU/>

29 World Values Survey, *World Values Survey Wave 6: 2010-2014*,
<http://www.worldvaluessurvey.org/WVSONline.jsp>

CORRUPTION PROFILE

Bribery in public services is rare in Georgia: Only 1% of the participants of a 2019 survey said that they or their family members had been asked to pay a bribe for a public service.³⁰

At the same time, the findings of different studies indicate that addressing other, more complex forms of corruption remains a challenge for the country. According to the survey cited above, 36% of the citizens believe that abuse of power for personal gain by public officials is either common or very common in Georgia, while 51% of those surveyed think that corruption is not investigated properly when it involves high-ranking officials or influential people with links to the ruling party.³¹

Georgia was assigned the score of 56 in the 2019 Corruption Perceptions Index (out of the possible 100). Georgia's score in the index has not changed significantly since 2012 - the year when the index was first compiled based on the current methodology. According to Transparency International, the risks of corruption in Georgia's political system are linked to state capture, concentration of power, and undue influence over the key institutions.³²

30 Transparency International Georgia, "Corruption Remains Significant Challenge in Georgia," 12 April 2019, <https://www.transparency.ge/en/post/corruption-remains-significant-challenge-georgia>

31 Ibid.

32 Transparency International, *CPI 2019: Eastern Europe and Central Asia*, 23 January 2020, https://www.transparency.org/news/feature/cpi_2019_europe_central_asia

ANTI-CORRUPTION ACTIVITIES

The Inter-Agency Council for Combating Corruption (Anti-Corruption Council) is the main institution tasked with coordinating anti-corruption policies in Georgia. Along with the representatives of the state institutions identified by the law, civil society representatives are also involved in the Council's work.³³

The Council's main tasks include determining the general policy for combating corruption, preparing Georgia's National Anti-Corruption Strategy and Action Plan, updating these documents regularly, and monitoring their implementation.³⁴

According to the OECD Anti-Corruption Network (OECD ACN), while the Anti-Corruption Council's mandate is limited to policy coordination, within this mandate, it has been effective in terms of the development and monitoring of policy. However, the Council's secretariat faces a lack of resources and has not been sufficiently active in terms of informing the public about its activities.³⁵ At the same time, local NGOs have suggested on multiple occasions that the Council's current mandate does not address the existing challenges and that it is necessary to establish an independent anti-corruption institution with a broader mandate.³⁶

In July 2019, the Council adopted the latest version of the National Anti-Corruption Strategy and the Action Plan for its implementation in 2019-2020, and the Georgian Government approved the documents in October.³⁷ The Strategy includes 16 priority areas:

1. Anti-Corruption Council and interagency coordination
2. Civil service
3. Openness, access to public information and citizen participation
4. Education and public awareness raising
5. The law-enforcement bodies
6. The justice system
7. Public finance and public procurement
8. The customs and tax systems
9. The private sector
10. The health and social sector
11. Political corruption
12. The defense sector
13. Sport

33 The Law on Conflict of Interest and Corruption in Public Institution, 17 October 1997, Article 12¹.

34 Ibid.

35 OECD Anti-Corruption Network (ACN), Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan, 15 September 2016, <http://bit.ly/30krxRv>

36 IDFI, *Independent Anti-Corruption Agency – Georgia and International Standards*, June 2017, 22-23; Transparency International Georgia, *Anti-Corruption Agencies: International Experience and Reform Options for Georgia*, 2014, 21-24.

37 The Georgian Government Decree No484 On Approving Georgian National Anti-Corruption Strategy and 2019-2020 Action Plan for Implementation of Georgian National Anti-Corruption Strategy, 4 October 2019.

14. Infrastructure projects

15. Regulatory bodies

16. Municipalities

The Anti-Corruption Action Plan which is structured according to these priority areas contains corresponding activities and objectives. For each activity, the Action Plan identifies a fulfilment indicator, a verification source, the agency responsible for implementation, a partner agency, implementation time frame, budget, and funding source.³⁸ The Anti-Corruption Council's secretariat regularly prepares and publishes monitoring and evaluation reports on the Action Plan's implementation.³⁹

According to the OECD ACN, the National Anti-Corruption Strategy is a "sound policy document with clear goals and objectives, useful principles and well-defined directions." The organization has noted, however, that, during the development of the Strategy, the government did not commission any studies that would make it possible to establish a baseline and measure subsequent progress. Also, some of the Action Plan's indicators only focus on the implementation of the corresponding activities, rather than the impact of those activities on the level of corruption in the country.⁴⁰

38 Ibid. (appendix).

39 The Georgian Ministry of Justice, Monitoring and evaluation of the Anti-Corruption Strategy and Action, <https://justice.gov.ge/Ministry/Index/288>

40 OECD Anti-Corruption Network (ACN), Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan, <http://bit.ly/30krxRv>

PARLIAMENT

The Parliament is the supreme representative body of the country and one of the key actors of the anti-corruption system. The Constitution and other laws provide the Parliament with strong guarantees of independence. However, there are signs of informal external influence on the Parliament in practice, which undermines the legislature's independence and its ability to oversee the activities of the executive branch. The Parliament mostly operates in a transparent manner but has not been sufficiently active in recent years in terms of the reform of anti-corruption legislation.

Parliament Final score: 59			
Dimension	Indicator	Law	Practice
Capacity: 68.7	Resources	100	50
	Independence	100	25
Governance: 70.8	Transparency	75	75
	Accountability	100	50
	Integrity	75	50
Role: 37.5	Executive oversight	25	
	Legal reform	50	
Law and practice average scores		75	46.4

STRUCTURE AND ORGANISATION

The Parliament of Georgia is the supreme representative body of the country that exercises legislative power, defines the main directions of the country's domestic and foreign policies, controls the activities of the government within the scope established by the Constitution, and exercises other powers.⁴¹

The Parliament consists of 150 members (MPs). It is a single-chamber body elected for a four-year term. Seventy-seven members are elected based on the system of proportional representation throughout the country, while 73 members are elected from majoritarian, that is, single-seat election districts. According to the current wording of the Constitution, starting from 2024, all 150 MPs will be elected from a single multi-mandate election district through nationwide proportional vote.⁴²

The Parliament, through the work of its committees, ensures preliminary preparation of legis-

41 Constitution of Georgia, Article 36.

42 Ibid., Article 37.

lative issues, support to the implementation of decisions, oversight of the work of the government and other bodies accountable to the Parliament.⁴³ Currently, there are 15 permanent committees operating in the Parliament. The Parliamentary Bureau organises the work of the Parliament.⁴⁴

A political entity of parliamentary activity – faction – is formed in the Parliament. A group consisting of at least seven members is required to form a faction.⁴⁵ A faction enjoys certain powers and privileges. A faction or factions which unite more than half of the full composition of the Parliament can form a parliamentary majority, while a faction or factions which unite more than half of MPs who are not members of the parliamentary majority, can form a parliamentary minority. The parliamentary majority and minority enjoy various privileges. Currently, there are 12 factions operating in the Parliament.⁴⁶ Since none of the factions outside of the parliamentary majority comprises more than half of the non-majority members, there is no minority in the Parliament at this time.

RESOURCES (LAW)

Score: 100

To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructural resources to effectively carry out its duties?

The Georgian legislation contains appropriate provisions to provide the Parliament with access to adequate financial, human and material and technical resources. The legislature controls the process of forming its own budget.

According to the Constitution, the operational funding allocated to the Parliament from the state budget can be reduced compared to the amount of such allocation from the budget of the previous year only with the Parliament's prior consent. The Parliament controls the distribution of the funds allocated to the Parliament from the state budget.⁴⁷

The Parliament's draft budget is formed based on the proposals made by the relevant committees, factions, the Board of Treasurers and the Parliamentary Staff. The Finance and Budgetary Committee presents this draft to the Parliament for approval.⁴⁸

MPs elected from single-seat electoral districts can have representatives in their respective districts. To organise the work with the constituents and ensure MPs' participation in addressing local issues, Bureaus of MPs elected from single-seat districts are established locally. These bureaus get monthly funding from the state budget, as well as a one-time payment for the purchase of equipment.⁴⁹

The Parliamentary Rules of Procedure also provide for the support staff for MPs. MPs can hire personal aides, which is a useful additional resource for improving their work.⁵⁰

43 Rules of Procedure of the Parliament of Georgia, Article 27.

44 Ibid., Article 24.

45 Constitution of Georgia, Article 41.

46 Parliament of Georgia, Factions,
<http://www.parliament.ge/en/saparlamento-saqmianoba/factions>

47 Constitution of Georgia, Article 66.

48 Parliament of Georgia, *Budget Formation*, (in Georgian), <http://bit.ly/2kZhPDU>

49 Parliament of Georgia, *Resolution on defining the role, organization and rule of work of the bureaus of MPs elected from single seat election districts and the rule of managing the funds allocated to the bureaus from the parliamentary budget*, (in Georgian), <https://bit.ly/2UG52qK>

50 Rules of Procedure of the Parliament of Georgia, Article 12.

RESOURCES (PRACTICE)

Score: 50

To what extent does the legislature have adequate resources to carry out its duties in practice?

In practice, the legislative body is mostly provided with adequate resources. The Parliament has infrastructure and other material resources required for it to operate. However, the lack of qualified staffers in the Parliament is a significant problem.

The legislative provision which stipulates that the budget of the legislature shall not be reduced without its consent is observed in practice. In the past four years, there has been a minor increase in the parliamentary budget: In 2016, its budget was GEL 50m, while in 2019, it was GEL 54.7m.⁵¹

The main problem of the parliamentary activity is the lack of qualified staffers.⁵²⁵³ The committees do not have enough staffers adequately qualified for the committees' corresponding powers.⁵⁴ The lack of qualified staff is one of the factors impeding legislative and oversight activities in the Parliament. Due to the lack of qualified staff in various sectors, it is difficult for the legislative body to engage in the meaningful discussion and act as an opponent to the government (which has significantly stronger resources in this respect).⁵⁵

For the opposition, using staffers employed in various committees for their work is problematic. According to an opposition MP, committee staffers only agree to fulfil various tasks if there is a permission given by a committee chairperson.⁵⁶

On the positive side, the Parliamentary Research Centre was established in 2019.⁵⁷

INDEPENDENCE (LAW)

Score: 100

To what extent is the legislature independent and free from subordination to external actors by law?

The law provides the Parliament with firm guarantees of freedom from subordination to external actors. MPs have immunity from prosecution. They enjoy a "free mandate" and cannot be recalled after being elected. The legislature elects its own officials and determines its own agenda.

The possibility of the dissolution of the Parliament is regulated by the Constitution and is limited to the occasions when the legislature fails to appoint a government.⁵⁸

51 Parliament website - <http://www.parliament.ge/en/>

52 Interview with Khatuna Gogorishvili, Member of Parliament and of the Board of Treasurers, 29 July 2019.

53 Interview with Tamar Chugoshvili, First Deputy Speaker of Parliament and Chair of the Board of Treasurers, 31 July 2019.

54 Ibid.

55 Ibid.

56 Interview with Khatuna Gogorishvili.

57 Parliament of Georgia, *Giorgi Khelashvili to Chair the Research Centre*, 24 July 2019, <https://bit.ly/2R9sXdC>

58 Constitution of Georgia, Article 58.

An MP is a representative of all Georgia who enjoys a free mandate; recalling an MP is not permitted. In carrying out his or her duties, an MP is not bound by the rules and tasks of voters and of the nominating party.⁵⁹

The arrest or detention of an MP, searches of his or her place of residence, place of work, vehicle or person are permitted only with the prior consent of the Parliament. The exception is when an MP is caught at the crime scene, in which case the Parliament must be notified immediately. Unless the Parliament consents to the detention within 48 hours, the arrested or detained MP is to be immediately released.⁶⁰

An MP has the right not to testify about facts disclosed to him or her in his or her capacity as an MP. The seizure or extraction of written materials related to such an issue is inadmissible. An MP retains this right after his or her term in office expires.⁶¹

An MP cannot be held liable for the views expressed inside or outside the Parliament while performing his or her duties. The conditions of unhindered exercise of powers by an MP are insured.⁶² The law also protects an MP's professional secrecy.⁶³

An MP receives remuneration prescribed by a legislative act. Respective state bodies ensure personal safety of an MP based on his or her application. Hindering the exercise of powers by an MP is punishable by law.⁶⁴

INDEPENDENCE (PRACTICE)

Score: 25

To what extent is the legislature free from subordination to external actors in practice?

Despite the fact that the law provides both the Parliament as a whole and each MP separately with firm guarantees of independence, their independence is not protected sufficiently in practice. There are signs of undue interference in the work of MPs.

Informal rule has been identified as one of the main threats to the Parliament's independence. According to an assessment made by civil society organisations, the parallel existence of formal and informal governing structures poses a serious problem to the system of democratic accountability, which renders meaningless the accountability of people who are formally in power and causes citizens' estrangement from the political system.⁶⁵ According to a former member of the parliamentary majority, the majority's members received instructions concerning their activities via anonymous messages.⁶⁶

Informal political influence prevents the Parliament from becoming more important and effective. Making a range of real political decisions outside of the Parliament weakens the legislature's role and, in some cases, turns it into a rubber stamp for the already made decisions.

59 Rules of Procedure of the Parliament of Georgia, Article 5.

60 Ibid., Article 11.

61 Constitution of Georgia, Article 39.

62 Ibid.

63 Law on Freedom of Speech and Freedom of Expression, Article 11.

64 Constitution of Georgia, Article 39.

65 Ibid.

66 Netgazeti, *Kvachantiradze Speaks about the Georgian Dream Chat where Messages Were Being Sent Anonymously*, 1 March 2019, (in Georgian), <https://netgazeti.ge/news/344952/>

This circumstance is a barrier which prevents the Parliament from performing one of its main roles – the one of exercising oversight of the executive branch.⁶⁷

The Parliament's decision to permit the Prosecutor's Office to seek opposition deputy Nika Melia's arrest in court was alarming in terms of the protection of the legislature's members from undue pressure. The Parliament made this decision despite the fact that the request by the Prosecutor's Office did not contain proper explanation of why it was necessary to place a Parliament member in custody.⁶⁸ Equally alarming was the fact that a secret video recording of Parliament member Eka Beselia's private life was posted on the Internet after she left the parliamentary majority. According to Beselia, several other members of the majority had been blackmailed with similar recordings.⁶⁹

TRANSPARENCY (LAW)

Score: 75

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

The law contains appropriate provisions to ensure that the public can obtain information on the activities and decision-making processes of the Parliament. The Parliament's Rules of Procedure envisage live TV and radio broadcasting of plenary sessions, as well as the meetings of the Bureau, the committees and investigative commissions, and the right to attend the sessions for the accredited representatives of media outlets. The Parliamentary Rules of Procedure also make it obligatory to publish on the Parliament's website the laws and other documents adopted by the Parliament as well as the information about votes.⁷⁰

The Parliament has an officially approved list of [the types of] information to be proactively published on the website.⁷¹ The list of the types of information to be published proactively has expanded in recent years.⁷²

To ensure the transparency of the Parliament's activities, the Permanent Parliamentary Council on Open Governance has been created within the Parliament. The aim of the Council is to ensure the openness, transparency and accountability of the Parliament and its systemic and coordinated work in this direction based on the principles of open government.⁷³

There is a defined rule of publishing information about committee sessions. Specifically, the date and the agenda of a committee session, indicating the issues to be discussed, are published on the Parliament's website at least three calendar days in advance. This term does not apply to the cases of expedited hearings of draft laws.⁷⁴

67 Georgian Institute of Politics, *Constitutional Reform in Georgia: Challenges of Implementing the Strong Parliament Idea and Analysis of Obstacles*, 23 February 2016, (in Georgian), <http://bit.ly/2X1oIWl>

68 Transparency International Georgia, *The State Still Has a Selective Approach in the Investigation of the June 20 Events*, 18 October 2019, <http://bit.ly/2Tq2xHj>

69 Netgazeti, *Beselia: Several people are being blackmailed with sex tapes, including in the majority*, 24 September 2019, (in Georgian), <https://netgazeti.ge/news/393473/>

70 Rules of Procedure of the Parliament, Articles 25, 34, 68, 92, and Chapter X.

71 Order No 368/3 of the Speaker of Parliament of Georgia, 28 December 2017, (in Georgian), <https://bit.ly/303BHWn>

72 Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 9, <http://bit.ly/30gw7A9>

73 Rules of Procedure of the Parliament, Article 77.

74 Ibid., Article 34.

According to the law, citizens can freely attend committee sessions.⁷⁵ The Parliament's website contains a special section designed to facilitate committee session attendance, indicating contact information of responsible persons in various committees.⁷⁶

TRANSPARENCY (PRACTICE)

Score: 75

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?

Overall, the public can obtain relevant information on the activities and decision-making process of the legislature in a timely manner. The Parliament provides the public with information about its activities using various channels. However, the right of citizens to attend parliamentary sessions is sometimes unduly restricted in practice.

TV channels can broadcast committee hearings and plenary sessions live. The Second Channel of the Georgian Public Broadcaster (GPB) regularly broadcasts live from the Parliament.⁷⁷

Draft laws are published on the Parliament's website immediately upon being registered in the Parliament. Information about the initiators and the version [of the draft] provided by the initiators of the law is published; the content part of the explanatory note is also made publicly available. Information about the first, second and third hearings as well as the final version of the law are accessible too.⁷⁸ Interested individuals can also view the questions which deputies have sent to the executive branch and the answers they have received, information about the business trip expenses of the Parliament's members, expense reports of the Parliament members' bureaus, and the data about the plenary sessions and committee meetings which the deputies have failed to attend.⁷⁹

Information about various legislative sessions, committee hearings and their agendas is available to the public and the media ahead of time.⁸⁰

The Parliament makes shorthand transcripts of its committee hearings. Citizens can also follow the positions assumed by various MPs when voting on specific laws and learn whether they attend a given discussion at all.⁸¹

In general, if they wish, citizens can actively participate in the life of the Parliament, including attending plenary sessions with an invitation. However, there are instances when, due to political context, the Parliament, without providing substantiation, does not allow citizens to

75 Open Parliament Action Plan 2017-2018, 16 May 2017, <http://bit.ly/2NPwVad>

76 Parliament of Georgia, *Rules for Visiting the Parliament*, (in Georgian), <https://bit.ly/2H2iV95>

77 Georgian Public Broadcaster (GPB) - <https://1tv.ge/>

78 Parliament of Georgia, Draft Laws, <https://bit.ly/2E34jpl>

79 Parliament of Georgia, MP Questions, <https://bit.ly/2K1oqqM>, MP Absences from Parliament Plenary Sessions, <https://bit.ly/32uG9gL>; MP Absences from Parliament Committee Sessions, <https://bit.ly/36Nc6E6>

80 Parliament of Georgia, Upcoming Events, (in Georgian), <http://www.parliament.ge/ge/anonsi>

81 Parliament of Georgia, Open Parliament, <https://bit.ly/36x4OUM>

attend the sessions.⁸² During the rallies held since 20 June, Georgian citizens, including Georgian MPs, journalists and representatives of the non-parliamentary opposition, have more than once been denied the right to enter the building of the Parliament of Georgia.⁸³

The incident which occurred on 12 December 2019 was particularly worrying as journalists were forcibly evicted from a meeting of the Parliamentary Committee on Legal Issues.⁸⁴

ACCOUNTABILITY (LAW)

Score: 100

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?

According to the Constitution, the Parliament is accountable to the citizens of Georgia.⁸⁵ The legislation contains various provisions to ensure accountability of the Parliament. The Parliament has an obligation to present to the public regular reports about the legislative process. The laws passed by the Parliament are reviewed by the Constitutional Court. MPs elected from single-seat districts have an obligation to meet with constituents in their respective districts.

The Constitutional Court has the authority to review the compliance of the laws and other legal acts with the Constitution.⁸⁶ Discussing the constitutionality of a political party's activities and the issue terminating the authority of a member of the representative body elected through nomination by this political party is also the prerogative of the Constitutional Court.⁸⁷

The Parliament is required by the law to present to the citizens an annual report on its activities and an action plan for the following year. The Parliament Speaker coordinates and leads this process. In addition to hearing in the Parliament, the report and the action plan are published on the Parliament's website.⁸⁸

MPs convey the information they receive during meetings with their constituents to the relevant committee/committees. Also, according to the new Rules of Procedure, a committee analyses the received information every three months and reports to the Parliament Speaker about the results based on responses. This information is published on the Parliament's website.⁸⁹

In addition, the parliamentary committees have an obligation to present to the Parliament no later than two weeks after the beginning of the spring session a written report on the activities performed by a committee and a corresponding report in accordance with the results of each year. This process is led by committee chairpersons.⁹⁰

82 Liberali, *Tamaz Akhobadze and Ana Subeliani will not have an opportunity to pose their questions to Tsulukiani*, 19 June 2018, (in Georgian), <https://bit.ly/2V3eZtx>

83 Transparency International Georgia, *Access of Citizens to the Building of the Parliament of Georgia is Unreasonably Restricted*, 13 September 2019, <http://bit.ly/2QPaRyl>

84 Netgazeti, *Investigation Launched into a Case of Interference with Journalistic Work*, 12 December 2019, (in Georgian), <https://netgazeti.ge/news/413599/>

85 Constitution of Georgia.

86 Ibid., Article 60.

87 Law on the Constitutional Court of Georgia, Article 19.

88 Rules of Procedure of the Parliament, Article 19.

89 Ibid., Article 201.

90 Ibid., Article 44.

The Parliament, prior to holding hearings of a constitutional law in the Parliament, has an obligation to organise a public discussion of the draft where citizens will have an opportunity to express their opinion both orally and in writing and have their views recorded in the meeting protocol.⁹¹

To organise the work with the citizens, facilitate communication with relevant public institutions and ensure MPs' participation in addressing local issues, Bureaus of MPs elected from single-seat districts are set up in the electoral districts.⁹²

The law envisages procedures which, in the event of an MP committing a crime, allow suspending their immunity from prosecution. To this end, the Parliament needs to consent to the detention of an MP in question or, if an MP is caught at the time of a criminal act in flagrante, to consent post factum to keeping him or her in custody.⁹³

ACCOUNTABILITY (PRACTICE)

Score: 50

To what extent do the legislature and its members report on and answer for their actions in practice?

In practice, MPs are only partially accountable for their activities. Citizens are provided with the information about the Parliament's activities. Instruments necessary for public oversight are in place. However, with regard to some important laws, the Parliament's consultations with the public are not adequate.

According to the results of the public opinion survey conducted in April 2019, only 12 percent of the population give a positive assessment to the Parliament's activities, while 40 percent assess them negatively (some of the answers being "average" and "I do not know").⁹⁴ This is a problem with regard to the Parliament's accountability before the citizens.

The MPs elected from single-seat districts, with certain intervals, organise meetings with the constituents from their districts. Using various tools, they are trying to identify local problems. MPs are quite actively using social networks to communicate with their voters.⁹⁵ Majoritarian MPs publish reports about their activities on the official website of the Parliament.⁹⁶ Despite this, studies say that the majority of citizens (71 percent) do not know who represents their districts in the Parliament.⁹⁷

The issue of depriving seven cities of their status of self-governing entities was problematic from the viewpoint of the Parliament accountability to the public. According to the Constitution, consultations with self-governing entities must precede such amendments. The Government of Georgia, which had initiated the law, failed to ensure that the constitutional obliga-

91 Ibid., Article 125.

92 Ibid., Article 202.

93 Ibid., Article 11.

94 Caucasus Research Resource Centre, *Public Attitudes in Georgia*, results of the April 2019 survey, <http://bit.ly/2F25BkQ>

95 Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 103, <http://bit.ly/30gw7A9>

96 Ibid.

97 Caucasus Research Resource Centre, *Public Attitudes in Georgia*, results of the December 2018 survey, <http://bit.ly/2Ws3LiR>

tions were properly fulfilled, namely, to hold consultations in accordance with the provisions of the law. In turn, the Parliament, whose most important role is to control the implementation of the law and oversight of the government, did not discuss whether this constitutional obligation had been fulfilled when considering the government's initiative.⁹⁸

The process of working on the constitutional amendments in 2017 was problematic in terms of the Parliament's accountability: after the Constitutional Commission had discussed the amendments to be implemented and public discussions had been held, the parliamentary majority changed in the draft law which had already been registered (before hearing it at the plenary session) the time frame for the introduction of the new proportional election system (from 2020 to 2024). This turned out to be unexpected for the Venice Commission since the draft sent to it envisaged changing the election system in 2020.⁹⁹

INTEGRITY (LAW)

Score: 75

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?

The law contains multiple provisions to ensure the integrity of MPs. The Constitution and other laws regulate such issues as the conflict of interests, reception of gifts, declaring assets and others.

The absence of the legislation regulating the conduct of MPs was a problem for years. In late 2018, the Parliament passed the Code of Ethics.¹⁰⁰ This was a step forward but the ineffective enforcement mechanisms within the Code of Ethics are a problem.¹⁰¹ In the event of misconduct, the application of the new document is limited to addressing an MP with a letter of recommendation and, in addition, once the decision is made, publishing the names of the MPs who violated the Code of Ethics on the Parliament's website along with a brief description of the violation they had committed.¹⁰²

An MP is under the obligation to fill out an asset declaration and submit it to the Civil Service Bureau. In addition, entrepreneurial activities are incompatible with the status of an MP. Specifically, he or she has no right to hold a management position and participate in managing a commercial organisation. However, the requirements concerning incompatibility with the status of an MP do not infringe upon property rights recognised by the Constitution of Georgia – an MP can own shares, stocks and other property.¹⁰³ Also, the rules concerning gifts applies to an MP as a political official.¹⁰⁴ Also, according to the Code of Ethics, MPs are required to declare in a special register any gifts whose value exceeds 300 lari.¹⁰⁵

98 Transparency International Georgia, *Non-governmental organisations address Members of Parliament of Georgia*, 7 July 2017, <http://bit.ly/2TkLw0U>

99 Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 19, <http://bit.ly/30gw7A9>

100 Parliament of Georgia, *Draft Law on the Approval of the Code of Ethics of a Member of Parliament of Georgia*, 24 May 2018, <https://bit.ly/2IWSZ26>

101 Transparency International Georgia, *Parliament Adopts Code of Ethics Without Effective Sanctions*, 2018, <http://bit.ly/2NAk7Vk>

102 Ibid.

103 Rules of Procedure of the Parliament, Article 7.

104 Law on Conflict of Interests and Corruption in Public Institution, adopted on 17 October 1997.

105 Parliament of Georgia, *Draft Law on the Approval of the Code of Ethics of a Member of Parliament of Georgia*, 24 May 2018, <https://bit.ly/2IWSZ26>

INTEGRITY (PRACTICE)

Score: 50

To what extent is the integrity of legislators ensured in practice?

Despite the fact that the law contains numerous provisions to ensure the integrity of MPs, there are very few cases where legislators were penalised for violating these rules. Questions arise as to whether MPs comply with the prohibition of entrepreneurial activity and restrictions concerning receiving gifts. In addition, the submission of incomplete asset declarations has occurred frequently in recent years.

There is a problem of undeclared business assets of MPs and activities incompatible with their status.¹⁰⁶ The case of Georgian Dream MP Viktor Japaridze can serve as an example. The MP

owns 33 percent of shares in the company Seti+ and has not transferred management rights to another person. A journalistic investigation conducted by Studio Monitor shows that Japaridze is actively involved in managing the company. At the same time, Seti+ secured a contract worth GEL 340 million with the state.¹⁰⁷

Submission of incomplete declarations by MPs and concealment, intentional or not, of their own and their family members' business activities is frequent.¹⁰⁸ Based on the appeal made by Transparency International Georgia in September 2017, the Civil Service Bureau made a negative assessment of asset declarations submitted by 54 MPs, all of whom were sanctioned with a fine of GEL 1,000.¹⁰⁹

For years, the donations made by MPs in favour of the ruling party have been in the spotlight. Specifically, there have been instances where MPs' donations to Georgian Dream exceeded their income which they themselves had declared.¹¹⁰

Sizeable gifts received by MPs and their family members, given to them mainly by their close relatives, raise questions.¹¹¹ According to the law, there is no ceiling value for a gift if it is received from a close relative. This could be reasonable and justified but, at the same time, there is danger that (in the absence of appropriate oversight) this exception would become a loophole in the law which could be used by unscrupulous civil servants to conceal or launder income prohibited by the law.

For many years, absenteeism has been a problem among MPs. In addition, it often happens so that MPs register for a session but do not actually attend the hearing.¹¹² The Parliament Speaker, too, talked about this in 2017 and said that, if an MP would not be present in the session hall after registering, his or her registration would not be equated to his or her presence

¹⁰⁶ Transparency International Georgia, *Business Connections of MPs, Incompatible Activities and Undeclared Assets*, 25 September 2017, <http://bit.ly/30fx3os>

¹⁰⁷ Studio Monitor, *Budgetary Benefits for Millionaire MP*, 2019, (in Georgian), <http://bit.ly/2KctHxs/>

¹⁰⁸ Transparency International Georgia, *Business Connections of MPs, Incompatible Activities and Undeclared Assets*, 19 September 2017, <http://bit.ly/30fx3os>

¹⁰⁹ Letter from the Civil Service Bureau to Transparency International Georgia, January 2019, (in Georgian), <http://bit.ly/2MCyXMM>

¹¹⁰ Transparency International Georgia, *Funding of Georgian Dream Significantly Exceeds Funding of Other Political Parties*, 31 March 2017, <http://bit.ly/2FGFkbl>

¹¹¹ Transparency International Georgia, *Gifts Received by MPs in 2017-2018*, 8 January 2018, <https://www.transparency.ge/en/blog/gifts-received-mps-2017-2018>

¹¹² Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 19, <http://bit.ly/30gw7A9>

at the session. The reason for this statement was that 76 MPs were absent from the session hall.¹¹³ This resulted in stricter provisions in the new Rules of Procedure aiming to improve MP attendance. Specifically, the list of admissible excuses for missing sessions was shortened and sanctions for absenteeism without the provision of admissible excuse were made stricter. After the new Rules of Procedure came into effect, the indicator of MPs' attendance improved by 35 percent.¹¹⁴

MPs have participated in the government's coordinated attack on non-governmental organisations.¹¹⁵ Then Parliament Speaker Irakli Kobakhidze, too, participated in the negative campaign: in the run-up to the elections in 2018, he called Georgian non-governmental organisations enablers of fascism.¹¹⁶

ROLE: EXECUTIVE OVERSIGHT (LAW AND PRACTICE)

Score: 25

To what extent does the legislature provide effective oversight of the executive?

The law provides the Parliament of Georgia with multiple tools for exercising oversight of the executive branch. However, parliamentary oversight is often ineffective in practice, primarily due to the Parliament's insufficient independence and the problem of informal rule.

A temporary investigative commission is one of the main instruments of parliamentary oversight, which has become more flexible after the Constitution was amended. While in the past the majority of the total number of MPs was required to create it, now the quorum has been reduced and the consent of one third of MPs is enough.^{117 118} This is a step forward in terms of strengthening the role of the opposition.

The prime minister has an obligation to present at least once a year an oral report to the Parliament, along with the written one. Political debates are held at the end of the discussion of the report.¹¹⁹ The procedure of interpellation exists in the Parliament. A seven-strong group of MPs, a faction, has the right to pose a question to the Government of Georgia, other bodies accountable to the Parliament, and members of the government. The question must be submitted in the written form, its content must be specific and be relevant to the powers of those to whom the question is addressed. An explanatory note can accompany the question. The question is answered orally, at the plenary session.¹²⁰ Debates take place after the end of the question-and-answer procedure.¹²¹

The issue of the vote of no confidence in the government can be initiated by more than one third of the total number of MPs.

113 Parliament of Georgia, *Statement by the Speaker Concerning Attendance of MPs at the Plenary Sessions*, 20 September 2017, <http://bit.ly/30ivrdu>

114 Parliament of Georgia, *Parliament of Georgia Presented Results 100 Days after Introducing New Rules of Procedure*, 2019, <http://bit.ly/2ZjOzpM> (accessed in May 2019).

115 Transparency International Georgia, *Government's Coordinated Attack on Civil Society Harms Democracy in Georgia*, 24 October 2019, <http://bit.ly/2NpkFNE>

116 Radio Free Europe / Radio Liberty (Georgia Service), *Irakli Kobakhidze Considers some NGO Representatives "Participants in Fascism"*, 8 October 2018, (in Georgian), <http://bit.ly/2tQt1Hc>

117 Rules of Procedure of the Parliament, Chapter VII, Article 62.

118 Transparency International Georgia, *Assessment of the Oversight Function Defined by the New Rules of Procedure of the Georgian Parliament*, 30 November 2018, <http://bit.ly/385vU5N>

119 Rules of Procedure of the Parliament, Article 150.

120 Ibid., Article 149.

121 Ibid.

Along with raising the issue on declaring no-confidence, the initiators present the Parliament with the candidate of Prime Minister, new composition of the government and the government programme. If the Parliament votes to declare its confidence in the new government with a majority of its full composition, the government will be considered approved.¹²²

MPs have the right to use any information necessary for exercising their powers unless the law prescribes otherwise.¹²³ They also have the right of unimpeded entry into any public organisation save for the exceptions envisaged by the law. The Parliament Speaker has the right to enter all correctional facilities without a special permit and can also transfer this right to any other MP.¹²⁴

A member of the Government of Georgia, a public official accountable to the Parliament, a head of a body accountable to the Parliament, are required to attend a committee meeting if summoned by a majority of the members in attendance or a faction. If asked by a committee, these officials are also required to present the relevant documents, findings and other required materials by the deadline set by the committee.¹²⁵

The Parliament's new Rules of Procedure provide for a new mechanism of oversight which involves establishment of thematic inquiry groups in order to review topical issues and prepare drafts of relevant decisions.¹²⁶ There was a precedent of the establishment of a thematic inquiry group before the Rules of Procedure came into force and both committees and councils have used it since then.¹²⁷

In 2019, the Parliament made progress in terms of oversight by introducing the procedure of the Minister's Hour. The old Rules of Procedure provided for the Government's Hour but it never took place. Since the adoption of the new rules of procedure, the Parliament has published a schedule whereby the ministers are to appear before the Parliament as part of the Minister's Hour procedure.¹²⁸

As for the shortcomings in the law, the legislation does not envisage holding political debates during the presentation of the annual government report.¹²⁹ The Constitution no longer envisages the issue of personal responsibility of a government member and, in the event of a change in one third of the government composition, the procedure for holding the vote of confidence, which is a backslide in terms of parliamentary oversight.¹³⁰

Despite the fact that the legislature is equipped with appropriate instruments to exercise parliamentary oversight, it does not always utilize them effectively in practice. The Parliament's supervisory capacity is undermined by the problems concerning the legislature's independence (see the relevant section of this chapter) and the informal influence over the government's activities (see the report's section on the independence of the executive branch).

122 Transparency International Georgia, *Assessment of the Oversight Function Defined by the New Rules of Procedure of the Georgian Parliament*, 30 November 2018, <http://bit.ly/385vU5N>

123 Rules of Procedure of the Parliament, Article 8.

124 Ibid.

125 Ibid., Articles 40-41.

126 Ibid., Articles 155.

127 Transparency International Georgia, *Assessment of the Performance of the Parliament of Georgia in 2018*, 17 July 2019, p. 8, <http://bit.ly/2ugdzEv>; Parliament of Georgia, Parliamentary Committees, <http://bit.ly/2Fjey2a>; Parliament of Georgia, Gender Equality Council, (in Georgian), <https://bit.ly/36LR09m>; Parliament of Georgia, Open Governance Permanent Parliamentary Council, <http://bit.ly/2TfnDrL>

128 Parliament of Georgia, Decision N233/11, 4 February, 2019, (in Georgian), <https://bit.ly/2VJec5z>

129 Transparency International Georgia, *Strengthening Parliamentary Control in Georgia*, 13 February 2018, p. 12, <http://bit.ly/2Tz1B3a>

130 Ibid.

The creation of temporary investigative commissions in the Parliament is a rare occurrence. In most cases, opposition MPs are initiators of setting up investigative commissions but, as a rule, the majority does not uphold their request.¹³¹ In recent years, the only investigative commission was created regarding the “Khorava Street case”, against the background of a strong public protest.¹³² No investigative commissions were formed on issues as important as the abduction of Azerbaijani journalist Afgan Mukhtarli, assault on former General Auditor Lasha Tordia¹³³, the TBC Bank case¹³⁴ and others.

Despite the fact that an investigative commission on the Khorava Street case was established and led by the opposition, the ruling party did not support the findings elaborated by European Georgia in September 2018. Contrary to this, Georgian Dream approved its own findings.¹³⁵ One of the main recommendations that featured in the resolution elaborated by the opposition was detention of Mikheil Kalandia, a person of interest in the case. In June 2019, the Ministry of Internal Affairs detained Kalandia.¹³⁶

It is noteworthy that the opposition does not preside over any of the committees in the Parliament.¹³⁷

The executive branch does not always consult the Parliament on issues as important as replacing ministers. In April this year, after the dismissal of Minister of Economy and Sustainable Development Giorgi Kobulia, Levan Koberidze, then member of Georgian Dream and of the Committee on Sector Economy and Economic Policy, expressed criticism concerning the fact that MPs were not informed about the change.¹³⁸

ROLE: LEGAL REFORMS (LAW AND PRACTICE)

Score: 50

To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?

In recent years, the Parliament has implemented a number of changes designed to contribute to the elimination of corruption, strengthening of integrity, transparency and accountability of the governance system. However, the legislature has failed to discuss some important anti-corruption initiatives.

In November 2015, the Parliament passed the new Law On Civil Service which came into effect 1 January 2017. The new law introduced the system of annual evaluation and certification of civil servants. Important steps were taken to eliminate a flawed institute of acting

131 Ibid.

132 On.ge, *Parliament Approves Composition of Investigative Commission on Khorava Street Case*, 6 June 2018, (in Georgian), <http://go.on.ge/q2m>

133 Transparency International Georgia, *Strengthening Parliamentary Control in Georgia*, 13 February 2018, p. 12, <http://bit.ly/2Tz1B3a>

134 Netgazeti, *Kobakhidze: I see no need for setting up investigative commission on TBC case*, 7 March 2019, (in Georgian), <http://bit.ly/2lc6zwZ>

135 Tabula, *Archil Talakvadze's Statement on the Investigative Commission*, 5 June 2019, (in Georgian), <http://tbl.ge/3qta>

136 Tabula, *Investigative Commission Demanded Kalandia's Detention As Early As on 5 September*, 4 June 2019, (in Georgian), <http://tbl.ge/3qmv>

137 Parliament of Georgia, *Committees*, <http://www.parliament.ge/en/saparlamento-saqmianoba/komitetebi>

138 Tabula, *Koberidze about Kobulia: At the Committee on Economy we were unaware of someone being dismissed or appointed*, 19 April 2019, (in Georgian), <http://tbl.ge/3ms0>

officials. Putting into operation the system of checking/monitoring public officials' asset declarations was a major innovation introduced by the law.¹³⁹

The adoption of the Parliament's new Rules of Procedure in 2018 was important in terms of the strengthening of the legislature's oversight role.¹⁴⁰

One of the positive legislative changes has been the abolition of simplified electronic tenders.¹⁴¹ The instrument of simplified electronic tender differed from regular electronic tenders by being held quickly and using simpler procedures. All procedures were conducted unreasonably hastily and, correspondingly, an opportunity to participate in them was significantly restricted for many potential suppliers, which, in turn, created a fertile ground for potentially corrupt deals.¹⁴²

In April 2018, an amendment¹⁴³ was made to the law, enabling citizens to submit legislative initiatives and petitions to the Parliament electronically. In addition, the Parliament's website has a system allowing citizens to express their views about a draft law or its part. An opinion recorded prior to the hearing of a draft law will be presented to the chairperson of the leading committee who, if need be, will familiarise the committee members with it during the session dedicated to the discussion of this draft law. If the committee agrees with the opinion, this will be reflected in the committee's conclusion.¹⁴⁴ This is a positive step for good governance and civic participation in the political process.¹⁴⁵

However, at the same time, in terms of civic participation, the Parliament has created new barriers for the submission and discussion of legislative proposals. This way, the Parliament will reduce the degree of civic engagement.¹⁴⁶ Specifically, according to the new rule, not only the author of the legislative proposal (citizen) will no longer be able to present the proposal at a committee session and may not even be invited to the hearing, based on the decision made by the committee chairperson.

With regard to good governance, one of the most significant backslides was an amendment made in 2017 to the Local Self-Government Code depriving seven cities of their self-governing entity status. This amendment was negatively assessed by numerous local organisations. The abolition of self-governing entities is a problem in terms of efficient governance and accountability to the citizens.¹⁴⁷

139 Transparency International Georgia, *Assessment of the Performance of the Eighth Convocation of the Parliament*, 1 March 2017, <http://bit.ly/3aiGeJx>

140 Transparency International Georgia, *Assessment of the Oversight Function Defined by the New Rules of Procedure of the Georgian Parliament*, 30 November 2018, <http://bit.ly/385vU5N>

141 Amendments to the Law of Georgia on Public Procurement, 6 April 2017, (in Georgian), <https://bit.ly/2Wgl7yZ>

142 Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 19, <http://bit.ly/30gw7A9>

143 Draft Law on the Amendments to the Rules of Procedure of the Parliament of Georgia, 28 December 2017, (in Georgian), <https://bit.ly/2IXPWqr>

144 Rules of Procedure of the Parliament, Article 107.

145 Transparency International Georgia, *Citizens to Be Able to Electronically Submit Bills and Petitions to Parliament*, 6 February 2018, <http://bit.ly/35Qvoqw>

146 Transparency International Georgia, *Assessment of Activities of Parliament of Georgia of the Ninth Convocation*, 25 July 2018, p. 19, <http://bit.ly/30gw7A9>

147 Georgian Young Lawyers' Association, *Appeal by 121 Organisations Concerning Likely Abolition of the Self-Governing Status for Seven Cities*, 31 March 2017, (in Georgian), <https://bit.ly/2DGovNj>

In January 2016, Transparency International Georgia presented to the Parliament a legislative proposal designed to improve Georgia's anti-corruption legislation and ensure that Georgia fulfils its international obligations in the area of anti-corruption policy. The legislative proposal envisages the creation of a National Anti-Corruption Agency to facilitate combating corruption in an efficient and coordinated manner and to prevent corruption in civil service. However, the Parliament has not discussed the draft law to this day.¹⁴⁸

The Parliament's will to reinforce the country's anti-corruption legislation is questionable, given the legislative amendment adopted in April 2019, whereby public officials are allowed not to disclose their connections with companies which have not conducted any transactions over the past six years or more.¹⁴⁹ Worryingly, the amendments were adopted after the Civil Service Bureau fined 59 MPs (of the 60 whose asset declarations it had reviewed) for incomplete disclosures in their declarations. MPs who had been fined were among those who proposed the amendment.¹⁵⁰

148 Transparency International Georgia, *Anti-corruption Legislative Initiative by Transparency International Georgia*, 20 January 2016, (in Georgian), <http://bit.ly/2WCAJSB>

149 Law on Conflict of Interest and Corruption in Public Institution, Article 18¹.

150 Georgian Public Broadcaster (Channel 1), *59 MPs Fined As a Result of Asset Declaration Monitoring*, 31 December 2018, (in Georgian), <http://bit.ly/36L0oJU>

EXECUTIVE BRANCH

Georgia's executive branch has enough resources for the effective performance of its role. The legislative framework contains sufficient provisions concerning the government's transparency and accountability. However, these provisions are applied inconsistently in practice and there are significant problems in terms of the government's independence and the integrity of its members. In recent years, the government has lacked the political will to establish an independent, professional civil service and to improve the anti-corruption policy.

Executive Branch Final score: 56.9			
Dimension	Indicator	Law	Practice
Capacity: 66.6	Resources		75
	Independence	100	25
Governance: 54.1	Transparency	50	50
	Accountability	100	25
	Integrity	75	25
Role: 50	Public sector management	50	
	Legal system	50	
Law and practice average scores		70.8	42.8

STRUCTURE AND ORGANISATION

The structure and powers of the executive branch in Georgia are defined by the Constitution of Georgia and the Law on the Structure, Authority and Rules of Operation of the Government of Georgia. Currently, the government consists of the prime minister, 10 ministers and one minister of state (who has staff rather than a ministry under his or her supervision). After parliamentary elections, the president nominates a candidate for the post of prime minister presented by a party or a coalition that won the elections; after that, the prime ministerial candidate selects candidates for ministers' posts while the Parliament votes to approve the government composition and its programme.

RESOURCES (PRACTICE)

Score: 75

To what extent does the executive have adequate resources to effectively carry out its duties?

Currently, the executive branch does not lack resources necessary to effectively carry out its duties.

Since the number of the members of the Government of Georgia has been reduced, the Cabinet is represented by the prime minister, 10 ministers and one minister of state. Although the number of ministries was reduced, the amount of funding and the number of employees has not changed significantly.

The reduction of the number of the Cabinet members has been a trend characteristic of the Georgian executive branch in recent years. In 2017, the number of ministries was reduced from 18 to 14.¹⁵¹ In July 2018, the number of the Cabinet members was reduced again, this time from 14 to 11.¹⁵²

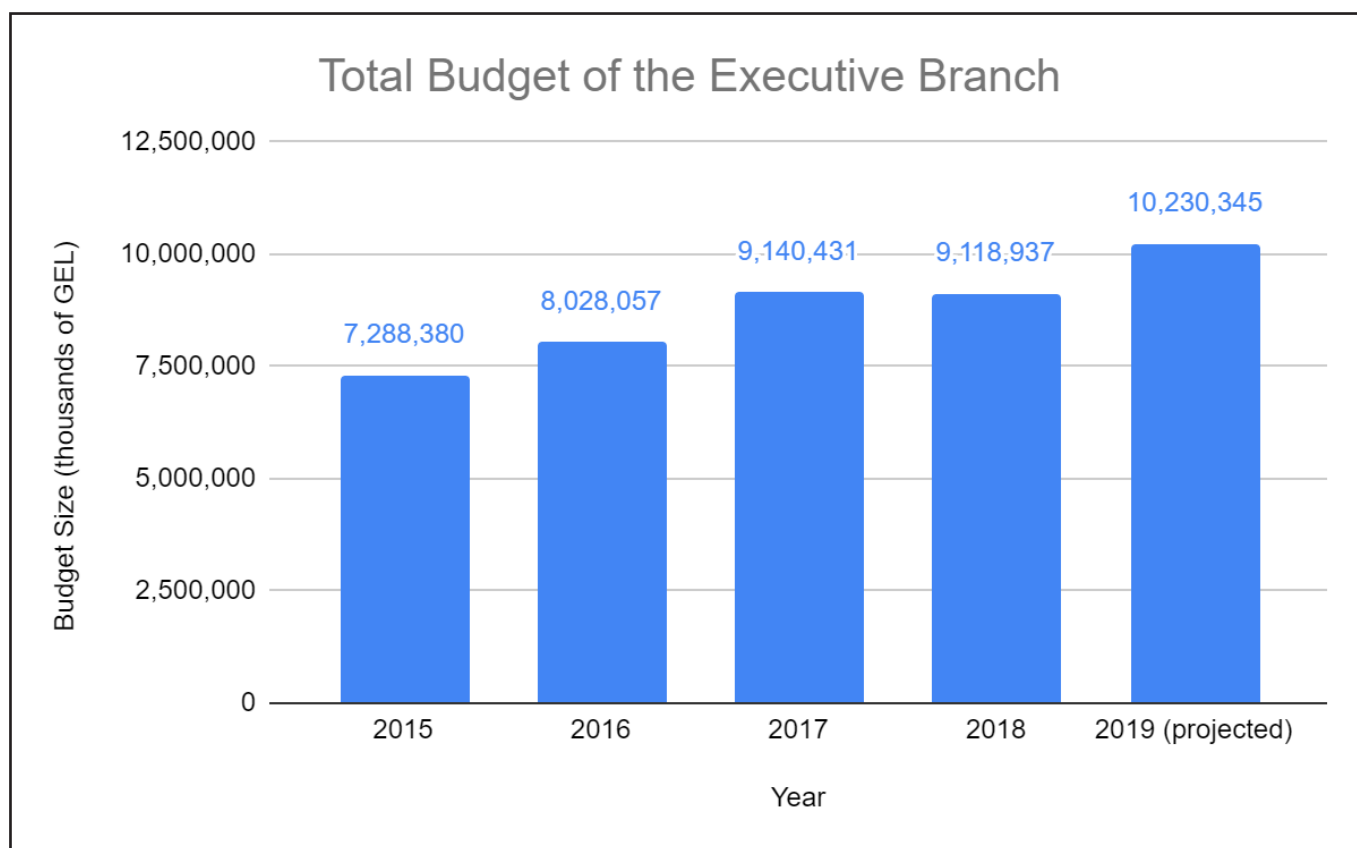


Figure 1. Funding of the executive branch (ministries and Government Administration)(thousands of GEL)¹⁵³

151 Georgian Public Broadcaster - Channel 1, *Giorgi Kvirikashvili: I am sure that reforms and changes will have a very positive impact on the progress and development of our country*, 13 November 2017, (in Georgian), <http://bit.ly/35ZAVLK>

152 Amendments to the Law on Structure, Powers and Activities of the Government of Georgia, 5 July 2018, <https://matsne.gov.ge/ka/document/view/4249951?publication=0>

153 Ministry of Finance of Georgia, State Budgets, <http://bit.ly/2TODXzU>

According to the National Statistics Office of Georgia (GEOSTAT), the average salary for the “public administration” category of the public sector has not changed significantly in recent years.

According to GEOSTAT data, the average amount of salaries for the “public administration” category of the public sector has increased by approximately 2 percent compared to 2015. The financing of the executive branch in Georgia is regulated by Articles 36 and 37 of the Georgia Budget Code.¹⁵⁴

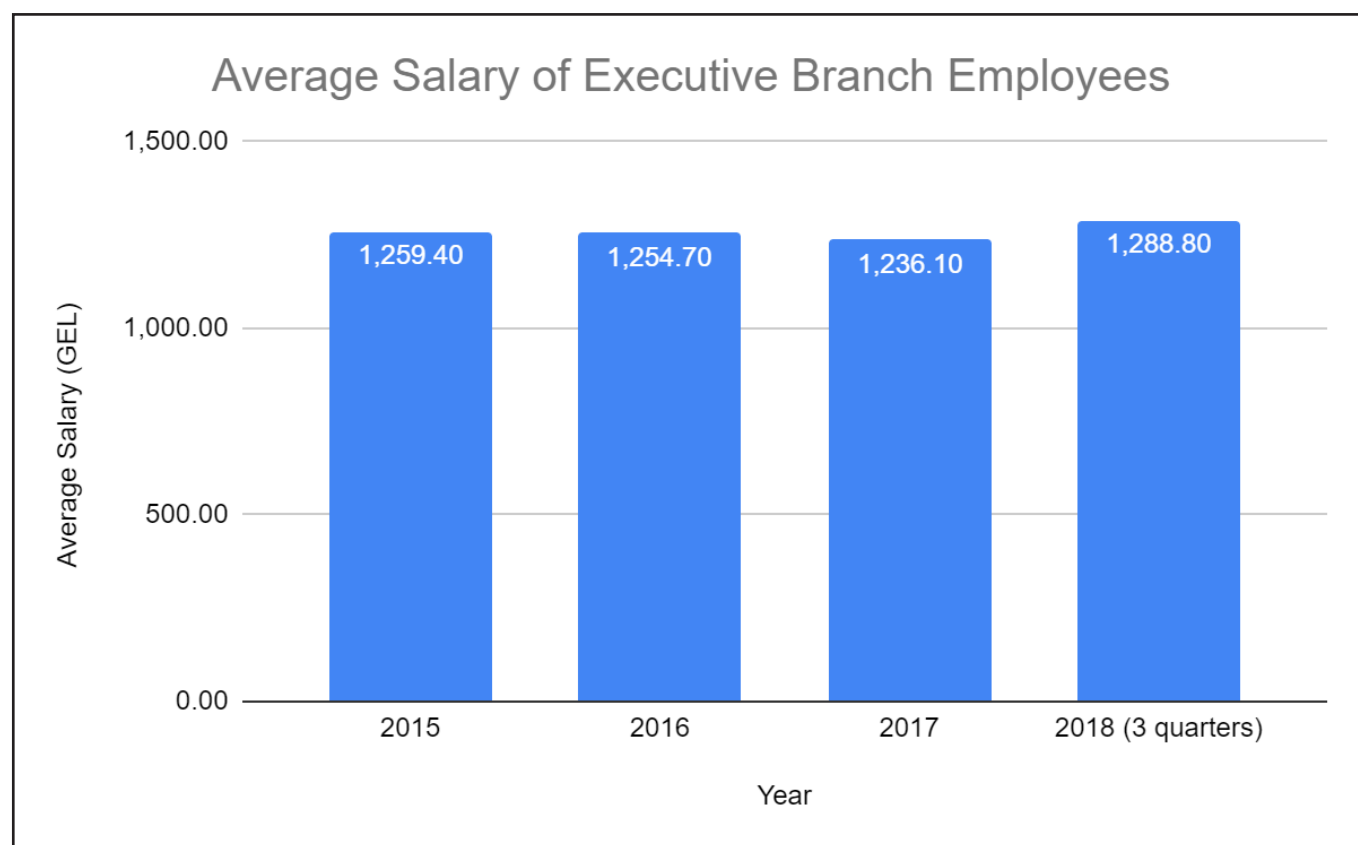


Figure 2. Average salary of executive branch employees.¹⁵⁵

According to the information available on the website of the Ministry of Finance, the number of employees in the executive branch has been decreasing since 2017, which could be caused by the process of the government optimisation.

154 Budget Code, Articles 36, 37.

155 Source: National Statistics Office of Georgia, <https://www.geostat.ge/ka>



Figure 3. Number of executive branch employees (ministries and the Government Administration)
Source: Ministry of Finance of Georgia

In recent years, there has been no significant reduction in the funding and staff of the executive branch. At the same time, the problems in terms of the professionalism of civil servants (discussed in the relevant chapter of this report) could pose a problem in terms of the executive branch's human resources.

INDEPENDENCE (LAW)

Score: 100

To what extent is the executive independent by law?

The existing legal framework does not impose undue restrictions on the independence of the executive.

As a result of the amendments made to the Constitution in 2018, Georgia has become a parliamentary republic. The executive branch – the Government of Georgia – is accountable to the Parliament. Apart from the principles of accountability defined by the Constitution, no one has the right to interfere with the work of the executive branch.

The institutional independence and activities of the executive branch of the government are defined by the Constitution of Georgia as well as the Law on the Structure, Authority and Rules of Operation of the Government of Georgia.

The current legal framework does not contain any provisions which would allow for undue interference with the activities of the executive branch. The Government of Georgia is accountable only to the Parliament.¹⁵⁶

¹⁵⁶ Constitutions of Georgia, Chapter V.

INDEPENDENCE (PRACTICE)

Score: 25

To what extent is the executive independent in practice?

The executive branch's independence in practice is undermined by informal influence on its activities.

The issue of institutional independence of the executive branch has been problematic in recent years. Ruling party leader Bidzina Ivanishvili has not held any formal public office since resigning from the prime minister's post in 2013, although in the spring of 2018 he assumed the post of the chairman of Georgian Dream and returned to politics.¹⁵⁷ Current and former Georgian Dream members have noted that the former Prime Minister was behind the staffing policy for the executive. Public opinion polls and reports by local as well as international organisations have indicated the same. Correspondingly, the informal governance that has taken shape in recent years is the most significant problem and challenge for the Georgian political system.¹⁵⁸ According to the Constitution, the Government of Georgia is accountable to the Parliament but the role of the Parliament in the changes that have occurred within the executive is minimal. The changes in the executive branch's leadership have not been preceded by a public discontent expressed by the parliamentary majority in advance or any statements about the initiation of the procedures of the vote of no confidence. There are many facts indicating that Bidzina Ivanishvili was the one making decisions.

Current and former members of Georgian Dream have talked about Bidzina Ivanishvili's direct participation in the processes unfolding within the executive branch. For example, Irakli Gharibashvili, political secretary of Georgian Dream, assessed the process of changing the prime ministers in recent years as follows: "No one should forget that this mandate, the government mandate, belongs and belonged to Mr Bidzina and was then given to me."¹⁵⁹ Zviad Kvachantiradze, former leader of the Georgian Dream parliamentary majority, publicly stated: "Ivanishvili told Irakli Gharibashvili to resign [from the prime minister's post] and so he did."¹⁶⁰ Talking about his role in the process of replacing Irakli Gharibashvili with Giorgi Kvirikashvili in the prime minister's post, Ivanishvili said that he gave a piece of advice which was followed.¹⁶¹ Giorgi Kvirikashvili's subsequent dismissal has also been linked to Bidzina Ivanishvili. Ivanishvili himself explained the reasons for Kvirikashvili's resignation from the post. Specifically, according to Ivanishvili's statement, Kvirikashvili was no longer able to govern.¹⁶²

According to former Georgian Parliament Speaker Davit Usupashvili, neither Irakli Gharibashvili nor Giorgi Kvirikashvili were entirely free in their staffing policies while occupying the prime minister's post, and this includes the appointment of the Cabinet of Ministers and other appointments under the law. Bidzina Ivanishvili was particularly interested in the Pros-

157 Imedinews, *Bidzina Ivanishvili to Chair the Georgian Dream*, 26 April 2018, <http://bit.ly/2R1xpfp>

158 Transparency International Georgia, *Informal Rule Has Triggered Crisis of Democratic Institutions*, 1 October 2018, <http://bit.ly/364bEzM>

159 Tabula, *Gharibashvili: Power and the mandate to govern has belonged and continues to belong to Mr. Ivanishvili*, 6 March 2019, (in Georgian), <http://bit.ly/3aiHoom>

160 Netgazeti, *Kvachantiradze: When Gharibashvili resigned, they wrote to me and told me to announce that he left the party as well*, 8 March 2019, (in Georgian), <http://netgazeti.ge/news/347154/>

161 Tabula, *Ivanishvili on the change of prime minister: I gave them advice that they took into consideration*, 2 June 2016, (in Georgian), <http://bit.ly/3akHqfx>

162 Georgian Public Broadcaster - Channel 1, *Bidzina Ivanishvili: Giorgi Kvirikashvili could no longer manage, he agreed his decisions with Alavidze and Kumsishvili alone*, 24 July 2018, (in Georgian), <http://bit.ly/38dUAZD>

ecutor's Office and the Security Service since establishing control over these agencies would allow maintaining the kind of order that he wanted. In addition, in individual cases, Bidzina Ivanishvili attended the meetings concerning the changes within the Cabinet without holding any official status. No consultations were held with the parliamentary majority concerning Irakli Gharibashvili's decision to resign.¹⁶³

Another indicator of informal governance of the executive is the appointment of persons connected to Ivanishvili to key posts. For example, Maia Tskitishvili, who used to work in Bidzina Ivanishvili's companies in the past, is the minister for regional development and infrastructure. Former Prime Ministers Irakli Gharibashvili and Giorgi Kvirikashvili worked at Bidzina Ivanishvili's companies, Minister of Health Eka Tikaradze, like her predecessor Davit Sergeenko, was the director of the multifunctional hospital in Sachkhere funded by Ivanishvili's Cartu Fund.¹⁶⁴

According to Freedom House, the informal governance by Bidzina Ivanishvili is the key impediment to Georgia's democratic functioning.¹⁶⁵ Public opinion polls also point at the existence of informal governance: for 59 percent of respondents, Bidzina Ivanishvili remains the decision maker in the government.¹⁶⁶ Local non-governmental organisations, too, consider informal governance as the main reason for the crisis of the democratic institutions in Georgia and have spoken about signs of state capture.¹⁶⁷

TRANSPARENCY (LAW)

Score: 50

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?

The legislative framework partially ensures the transparency of the executive branch's operation.

The transparency of the activities of the executive branch in Georgia is regulated by the General Administrative Code and the Government Decree dated 29 August 2013 which defines the list of information to be published proactively.¹⁶⁸

Government officials are required to file annual asset declarations. The law also provides for the verification of these declarations by the Civil Service Bureau.¹⁶⁹ On the negative side, a legislative amendment adopted in April 2019 makes it legal for public officials not to disclose their connections with companies which have conducted no transactions over the past six years or more.¹⁷⁰

163 Interview with Davit Usupashvili, former chairman of the Parliament, 19 June 2019.

164 Transparency International Georgia, *Ivanishvili's Companies – Public Officials' Talent Pool Three Years Later*,

8 October 2018, <http://bit.ly/2sr9Fb7>; Tabula, *Davit Sergeenko to become Bakhtadze's Adviser, Eka Tikaradze to be Appointed Minister of Health*, 18 June 2019, (in Georgian), <https://bit.ly/2tHmM8z>

165 Freedom House, *Nations in Transit - Georgia*, 2018, <http://bit.ly/2R09CN4>

166 National Democratic Institute, *Public Attitudes in Georgia*, June 2017, <http://bit.ly/2FXiKMb>

167 Transparency International Georgia, *Informal Rule Has Triggered Crisis of Democratic Institutions*,

1 October 2018, <http://bit.ly/364bEzM>; Transparency International, *From Concentrated Power to State Capture: Georgia's Backsliding Anti-corruption Reforms*, 14 February 2019, <http://bit.ly/30tWqmF>

168 Law on Requesting Public Information in Electronic Form and Publishing it Proactively.

169 Government Resolution #81 of 14 February 2017, Instruction on How to Monitor Public Official Asset Declarations, http://gov.ge/files/469_59885_393195_81.pdf

170 Law on Conflict of Interest and Corruption in Public Institution, Article 18 (1).

In order to effectively ensure transparency in the activities of the public sector, including the executive branch, local and international organisations recommend adopting the law on the freedom of information. The Government of Georgia undertook the obligation to adopt this law as early as in 2014 but has not fulfilled this obligation to this day. The new legal framework aimed to qualitatively improve transparency of the public sector activities by regulating such issues as the expansion of the notion of public information and the establishment of an oversight body equipped with effective levers, responsible for releasing information. The Government of Georgia has committed to adopt the Freedom of Information Act, the new legislation, within several international formats.¹⁷¹

According to former Deputy Minister of Justice Aleksandre Baramidze, the adoption of the freedom of information law was delayed due to disagreements within the government, including the opposition by the law enforcement bodies, and the lack of political will. The introduction of the inspection mechanism and the post of inspector was particularly problematic.¹⁷²

Government sessions are held behind closed doors, which has a negative effect on the degree of transparency.¹⁷³

TRANSPARENCY (PRACTICE)

Score: 50

To what extent is there transparency in relevant activities of the executive in practice?

The enforcement of the legislation regulating access to public information varies within the executive as there are significant differences between various ministries in terms of transparency.

According to the study conducted in 2018 by the Institute for Development of Freedom of Information (IDFI), there are significant differences between the agencies comprising the government in terms of releasing public information. According to the study, the Ministry of Environmental Protection and Agriculture released the requested information in 99.8 percent of cases, while in case of the Ministry of Justice this indicator was as low as 3.85 percent. Overall, the ministries released requested information in full in 77 percent of cases.¹⁷⁴ It should be noted that the Justice Ministry has published different figures for the same period of time: According to the ministry, 25 of the requests which it received in 2018 concerned information outside its responsibilities and were forwarded to the relevant agencies, and the ministry provided the requested information in a majority of the remaining 97 cases.¹⁷⁵

The situation is similar with regard to proactive publication of information. While the Ministry of Education, Sports, Culture and Science publishes 98 percent of information defined by the

171 The Anti-Corruption Network for Eastern Europe and Central Asia of the Organisation for Economic Co-operation and Development (OECD ACN) recommended that the Government of Georgia pass the Freedom of Information Act. This law has not yet been passed. The Government of Georgia has also undertaken the obligation to submit this law to the Parliament within the framework of the OGP as well as the EU Association Agreement.

172 Interview with Aleksandre Baramidze, former deputy minister of justice, 12 June 2019.

173 Netgazeti, *Closed Government Sessions Contradict the Principle of Publicity*, 23 February 2015, (in Georgian), <http://netgazeti.ge/news/38879/>

174 Institute for Development of Freedom of Information, *Access to Public Information in Georgia 2018*, 3 May 2019, https://idfi.ge/en/idfi_presented_its_report_on_access_to_public_information_in_georgia

175 Ministry of Justice, *Ministry of Justice of Georgia 2018 Report on Freedom of Information*, 10 December 2018, (in Georgian), <https://matsne.gov.ge/ka/document/view/4388845?publication=0>

law, this indicator for the Government Administration constitutes 39 percent while the average indicator for the ministries is 76 percent.¹⁷⁶

The asset declarations of public officials are accessible via the Internet.¹⁷⁷ The Civil Service Bureau conducts annual verification of the asset declarations. However, there are legitimate questions regarding the effectiveness of the asset declarations filed by some high-ranking officials.¹⁷⁸

ACCOUNTABILITY (LAW)

Score: 100

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

The Georgian legislation contains numerous instruments to ensure the accountability of the executive.

According to the Constitution of Georgia, the Parliament of Georgia oversees the work of the Government of Georgia.¹⁷⁹ Article 48 of the Constitution lists public officials against whom the Parliament can initiate the impeachment procedure if they violate the Constitution and/or relevant laws. The list includes members of the Government who can be removed from office by the majority of the total composition of the Parliament.

The articles under Chapter V of the Constitution determine the issues of accountability of the head of the Government of Georgia and the executive branch. The Government of Georgia is accountable and answerable to the Parliament.¹⁸⁰ The Parliament of Georgia also has the right to institute the procedure of voting no confidence in the government -- 1/3 of the total composition of the Parliament is required to this end.¹⁸¹

The current wording of the Constitution envisages a simpler procedure for declaring no confidence in the government. In a parliamentary republic, the parliament is the main body enjoying public legitimation, it is important that the principle of accountability of the government to the parliament is observed as effectively as possible. From this viewpoint, it is important that the Parliament, if needed, has an effective and flexible mechanism to raise the issue of the government's responsibility and to declare no confidence in it. Considering this, it is a welcome development that the procedure for raising the issue of the government's responsibility has been simplified and the Parliament's oversight mechanism has been strengthened.¹⁸²

The new Rules of Procedure adopted by the Parliament of Georgia also regulate the issue of the government's responsibility. The following key oversight instruments can be identified in

176 Institute for Development of Freedom of Information, *Proactive Disclosure of Information on Public Institution Websites*, 14 June, 2019,

https://idfi.ge/en/proactive_disclosure_of_information_on_public_institution_websites

177 Civil Service Bureau, *Database of Public Official Asset Declaration*, <https://declaration.gov.ge/>

178 Transparency International Georgia, *Civil Service Bureau's Statement Raises Questions Regarding Effectiveness of Asset Declarations Monitoring System and Bureau's Political Neutrality*, 17 December 2019, <http://bit.ly/2RRTwnG>

179 Constitution of Georgia, Article 36(1).

180 Ibid., Article 54.

181 Ibid., Article 58.

182 Institute for Development of Freedom of Information, *IDFI's Assessment of the Proposed Constitutional Amendments*, 28 April 2017, <http://bit.ly/2R0fpSE>

this direction: changes in the norms regulating the question and inquiry by an MP, interpellation, report by the prime minister, rules of delivering the report by the prime minister, mandatory summoning of public officials, thematic investigation groups, temporary investigative commissions. The grounds and the procedures of forming a temporary investigative commission have changed as well. The current Rules of Procedure determine the grounds and the procedure for establishing a parliamentary commission – 1/3 of the total composition of the Parliament is required to form a commission. Also, the Ministerial Hour has also been restored – it envisages the delivery of reports by individual members of the Government of Georgia (except for the prime minister of Georgia) at the plenary session of the Parliament once a year concerning the fulfilment of the relevant direction of the government programme.¹⁸³

The mechanisms ensuring accountability of the executive branch also include the State Audit Office's review of its expenditures.¹⁸⁴

ACCOUNTABILITY (PRACTICE)

Score: 25

To what extent is there effective oversight of executive activities in practice?

The mechanisms of accountability of the executive branch envisaged by the law are not applied effectively in practice.

The new Constitution and the amendments made to the Parliament's Rules of Procedure strengthen the government's accountability to the Parliament at the legal level. Since the introduction of the new Parliamentary Rules of Procedure in December 2018, the interpellation mechanism has (as of October 2019) been used on five occasions, the minister's hour – on seven occasions, and hearing of government members – on three occasions.¹⁸⁵ The Parliament does not actively use some of the important accountability mechanisms in practice. An investigative commission has been established in one case only, following mass protest rallies and public outcry. In other high-profile cases that remain to be investigated and in which the executive had allegedly acted inappropriately, no investigative commissions were formed despite numerous requests by the parliamentary minority, persons involved in the cases or external observers. Correspondingly, it can be assumed that, in the absence of the parliamentary majority's political will and due to informal influence in some cases, the accountability mechanism is weak in practice.

In the Parliament of the Ninth Convocation, requests for establishing temporary investigative commissions have been registered 12 times but only one commission has been formed – concerning the crime committed on Khorava Street on 6 June 2018. [The creation of the commission] was preceded by street rallies and public anger.¹⁸⁶ It is noteworthy that the Parliament of the Eighth Convocation did not form investigative commissions on the opposition's request either. There were 14 requests to establish investigative commissions made in the Parliament of the Eighth Convocation, but only one of them was granted: The Temporary Investigative Commission of the Parliament of Georgia on Studying the Activities of the Georgian National Communications Commission was created. This was the only case when the establishment of a commission was requested by the parliamentary majority.¹⁸⁷

183 The Rules of Procedure of the Parliament, 14 December 2018, Articles, Articles 61, 149, 153.

184 Law on State Audit Office, Article 17.

185 Transparency International Georgia's correspondence with the Government Administration of Georgia, October-November 2019.

186 Interpressnews, *Temporary Investigative Commission on the Khorava Street Case to Start Working Today*, 7 June 2018, <http://bit.ly/2O5OHX6>

187 Transparency International Georgia, *Performance of the Parliament's 8th convocation*, p. 46, 1 March 2017, <http://bit.ly/2ujwtna>

According to Davit Usupashvili's assessment, the parliamentary oversight of the executive and the latter's accountability are not effectively implemented in practice. The executive branch feels accountable to the centre of (informal) authority that exists outside the scope of the Constitution.¹⁸⁸

The practical effectiveness of the accountability of the executive is doubtful due to the signs of informal governance and state capture, which are actively discussed by the representatives of the civil sector and international organisations. After Bidzina Ivanishvili had resigned from the prime minister's post, he remained one of the most important players influencing government appointments, which is confirmed by his own statements, as well as those by former and current members of Georgian Dream (see relevant subsection). Both international organisations and representatives of the civil sector talk about the establishment of informal governance and signs of state capture in parallel to the legal forms of accountability of the executive.¹⁸⁹

The State Audit Office performs the audit of the executive agencies as envisaged by the law in practice as well. However, there are problems with regard to ensuring the Office's independence. Specifically, in 2017, the government failed to respond in an effective manner to the assault on then General Auditor Lasha Tordia.¹⁹⁰

INTEGRITY (LAW)

Score: 75

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

The law contains multiple provisions designed to ensure the integrity of government members, although some of these provisions are ambiguous.

The integrity of the activities of the executive branch is regulated by the Law on Civil Service,¹⁹¹ the Law on Conflict of Interest and Corruption in Public Institution,¹⁹² and the Decree on Defining Ethics and General Rules of Conduct in Public Institution issued by the Government of Georgia in 2017,¹⁹³ although the latter does not apply to some public officials, including ministers. In most cases, the existing legal framework establishes appropriate mechanisms for ensuring integrity, although it is not equipped to address the more complex challenges concerning corruption and abuse of power, and needs further improvement.

The law regulates conflict of interest, participation of public officials in business, restrictions on gifts, public officials' obligation to disclose their assets and whistle-blower protection.¹⁹⁴ The law also contains provisions concerning the issue of revolving door but these provisions are ambiguous, which makes their enforcement difficult.¹⁹⁵

188 Interview with Davit Usupashvili, former chairman of the Parliament, 19 June 2019.

189 Transparency International Georgia, *Alarm Over Increasing Signs of State Capture and Pressure on Civil Society in Georgia*, 16 October 2018, <http://bit.ly/2RtKTzJ>

190 Radio Free Europe / Radio Liberty (Georgian Service), *Partskhaladze vs Tordia - Parliament washes its hands of the issue*, 16 May 2017, (in Georgian), <http://bit.ly/2uQGLlw>

191 The Law on Civil Service, 27 October 2015.

192 The Law on Conflict of Interest and Corruption in Public Institution, 17 October 1997.

193 Order N200 of 20 April 2017 of the Government of Georgia on Defining the Code of Conduct and Ethics in Public Service.

194 Law on Conflict of Interest and Corruption in Public Service.

195 Transparency International Georgia, *"Revolving Door" Problem in Georgia: Shortcomings of Legislation and Enforcement*, 15 July 2019, <http://bit.ly/2G0Z3TI>

When listing significant shortcomings of the law, it is important to note that it is often unclear which agency or official is responsible for the enforcement of a given provision.

INTEGRITY (PRACTICE)

Score: 25

To what extent is the integrity of members of the executive ensured in practice?

There are significant problems in practice in terms of the integrity of executive branch officials.

In recent years, there have been many cases of alleged conflict of interest and corruption in the executive branch but these cases were usually not investigated and remained without a proper response.

Among the problems that prevail in this respect, the following ones are worth mentioning:

- Links between members of the executive with the private companies in the sectors which they supervise;¹⁹⁶
- Suspicious gifts received by public officials;¹⁹⁷
- Instances of public officials purchasing expensive real estate while in office;¹⁹⁸
- Alleged illegal participation of public officials in business activities.¹⁹⁹

According to the secret recordings published in 2018, public officials (including representatives of the executive) were possibly involved in a corrupt scheme which involved illegal revenues from the tobacco market for public officials and the ruling party.²⁰⁰ This case, as well as those listed above, was left without an effective response.

Internal audit units within ministries are tasked with the enforcement of the regulations aimed to ensure integrity, however, the government has not taken any steps to strengthen these units.²⁰¹

196 Transparency International Georgia, *Risks of Conflict of Interest and Corruption in the Ministry of Culture*,

6 June 2016, <http://bit.ly/2Rp2cSy>

197 Transparency International Georgia, *Gifts Received by Public Officials Need to Be Studied Further*,

7 March 2018, <http://bit.ly/3adRYNe>

198 JAM News, *Journalists Expose the Lavish Homes of Georgian MPs and Ministers*, 15 October 2018, <http://bit.ly/2FXlibN>

199 Transparency International Georgia, *Business Activities and Related Violations of Ministers and their Deputies*, 16 December 2019, <http://bit.ly/2tiPZXA>

200 Transparency International Georgia, *Smoke of Corruption: The Grand Scheme to Allocate the Tobacco Market*,

3 October 2018, <http://bit.ly/2TvcW4y>

201 OECD Anti-Corruption Network (ACN), *Istanbul Anti-corruption Action Plan Fourth Round of Monitoring Progress Update Report on Georgia*, 2019, p. 41, March 2019, <http://bit.ly/2NnA0hw>

ROLE: PUBLIC SECTOR MANAGEMENT (LAW AND PRACTICE)

Score: 50

To what extent is the executive committed to and engaged in developing a well-governed public sector?

In recent years, the Government of Georgia took important steps to improve the legal framework regulating the public sector and to adopt the documents defining the direction of reforms. However, the serious problems with regard to the enforcement of the law and the strategic documents in practice indicate that there is a lack of political will in this area.

In 2015, the Government of Georgia approved the Public Administration Reform Roadmap 2020 which covers six main directions: policy development and coordination, human resources management, accountability, service delivery, public finance management and local self-government.²⁰²

While the approval of the Roadmap and the establishment of the key directions of reform was a positive step, according to local and international organisations, the implementation of the document is marred by significant shortcomings. The pace of the implementation of the planned work is low, which results in problems with the creation of an efficient system of policy development and implementation.²⁰³ The Public Administration Reform Action Plan 2019-2020 approved by the government also has significant shortcomings. Specifically, the plan does not contain ambitious reforms and tasks whose fulfilment would be enough for achieving the goals set by the Roadmap. Furthermore, some of the indicators in the plan are vague and make measuring the progress difficult or even impossible.²⁰⁴ The goal of ensuring the public administration's independence is yet to be achieved (see the report's chapter on public administration).

One of the extremely important components of establishing an efficient civil service is the Law on Civil Service which was put into effect on 1 July 2017. The new legislation introduced several positive changes (see relevant chapter of the report). However, the Law on Legal Entities of Public Law has not yet been put into force, so the changes in the civil service legislation do not apply to them.²⁰⁵

The problems that still prevail with regard to the civil service reform – including favouritism in public service employment, contract-based hiring bypassing competition and pressure on public servants during pre-election periods – indicate that the state lacks the political will to establish an efficient public sector.²⁰⁶ The alleged pressure on civil servants in order to force them to attend a rally which the ruling party organized in Tbilisi on 14 December 2019 was alarming in this context.²⁰⁷

202 Government of Georgia, *Public Administration Reform Roadmap 2020*, 25 May 2015, <http://bit.ly/38i3xB8>

203 SIGMA, *Baseline Measurement Report: The Principles of Public Administration - Policy Development and Coordination (Georgia)*, May 2018, <http://bit.ly/2QZIFZR>

204 Institute for Development of Freedom of Information, *Public Administration Reform Action Plan does not Respond to Existing Challenges*, 11 July 2019, <http://bit.ly/2Nz2OUw>

205 Law on Public Service.

206 Open Society Georgia Foundation, *Reforming Georgia's Civil Service: Progress Towards Meeting Association Agenda Commitments*, 26 September 2018, <http://bit.ly/2RtLjFR>

207 Public Defender of Georgia, *Public Defender's Statement on Alleged Pressure on Citizens*, 13 December 2019, <http://bit.ly/2RltwB2>

ROLE: LEGAL SYSTEM (LAW AND PRACTICE)

Score: 50

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?

In recent years, there has been a lack of political will on the part of the Government of Georgia to combat complex forms of corruption and implement significant anti-corruption reforms.

The Government adopts the National Anti-Corruption Strategy and the Action Plan for its implementation which are updated periodically. The latest versions of these documents were approved in October 2019.²⁰⁸

The evaluations by many international organisations and partner entities also point out the lack of political will to combat complex forms of corruption. The resolution passed by the European Parliament in 2018 states that high-level, elite corruption is a serious problem for Georgia and calls on the Georgian authorities to implement the anti-corruption strategy and its action plan. It underscores that Georgia needs to create an independent anti-corruption agency, free from political interference and independent from the State Security Service. At the same time, it once again stresses the importance of effective separation of powers and of political and economic interests. It also underscores that the fight against corruption requires an independent judiciary and investigation of the cases of high-level corruption – an experience Georgia is yet to gain.²⁰⁹

The Transparency International Secretariat has also called on the Government of Georgia to take immediate action to resolve the cases of high-level corruption.²¹⁰ Informal governance, high-level corruption and other problematic issues casts doubts on the will of the executive branch to combat corruption and effectively ensure accountability. The government's ineffective response to the problems in recent years also showed the signs of state capture.²¹¹

According to former Deputy Minister of Justice Aleksandre Baramidze, in recent years, the Government of Georgia has not taken effective steps in terms of anti-corruption policy as it has not even recognised the existence of the complex forms of corruption. The recent high-profile cases indicate that there is systemic corruption although relevant agencies are not working to address it. The Anti-Corruption Council operating under the Ministry of Justice is ineffective as a body coordinating anti-corruption policy since it is not equipped with relevant legal leverage, including the functions that would allow it to evaluate the efficiency of investigation of corruption-related crimes by the Prosecutor's Office and the State Security Service.²¹²

According to the public opinion survey commissioned by Transparency International Georgia, the majority of respondents (51 percent) think that corruption-related cases are not being

208 Decree on Approval of Georgia's National Anti-Corruption Strategy and 2019-2020 Action Plan, 4 October 2019, (in Georgian), <https://matsne.gov.ge/document/view/4674422?publication=0>

209 European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Georgia (2017/2282(INI)), <http://bit.ly/30wvu5z>

210 Transparency International Georgia, *Corruption Perceptions Index 2018: Failure To Investigate High-Level Corruption Causing Lack of Progress*, 29 January 2019, <http://bit.ly/36YILXj>

211 Transparency International Georgia, *Alarm Over Increasing Signs of State Capture and Pressure on Civil Society in Georgia*, 16 October 2018, <http://bit.ly/2RtKTzj>

212 Interview with Aleksandre Baramidze, former deputy minister of justice, 12 June 2019.

properly investigated when high-level public officials or influential persons connected to the ruling party are concerned. Some 42 percent of respondents agree with a view that the government, as a rule, protects people involved in corruption, while 31 percent think that the government usually exposes such people.²¹³

It is noteworthy that there are significant problems concerning the implementation by the Government of Georgia of the anti-corruption recommendations made by international organisations. For example, as of 2019, Georgia has failed to achieve progress in the majority of the 81 points of recommendations approved by the OECD Anti-Corruption Network in 2016.²¹⁴ From the 16 recommendations approved by the Council of Europe's Group of States Against Corruption (GRECO) in 2016, Georgia has "satisfactorily" implemented only five as of 2019.²¹⁵

Nongovernmental organisations see one of the solutions of the problem mentioned above in the creation of an independent anti-corruption service, which requires corresponding political will on the part of the government.²¹⁶ Despite numerous calls and legislative initiatives by the civil society and anti-corruption organisations, the Government of Georgia has not taken any effective steps in this direction.

213 Transparency International Georgia, *Corruption Remains Significant Challenge in Georgia*, 15 April 2019, <http://bit.ly/2QUGLcL>

214 OECD ACN, *Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan for Georgia*, March 2019, <http://bit.ly/2NnA0hw>

215 Group of States Against Corruption (GRECO), *Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Compliance Report Georgia*, 2 July 2019, <http://bit.ly/30utHho>

216 Transparency International Georgia, *Georgian Government Must Take Effective Steps To Address Challenge of High-Level Corruption*, 10 December 2018, <http://bit.ly/30uPK7L>

JUDICIARY

The judiciary is one of the key institutions of the national integrity system. The legal framework governing the operation of the judiciary mostly contains proper provisions to ensure its independence, transparency and integrity, but these goals have not been achieved in practice. There are significant problems both in the law and in practice in terms of ensuring the judiciary's accountability. Due to its lack of independence, the judiciary is unable to perform its role of the executive branch's supervisor effectively.

Judiciary Final Score: 45.1			
Dimension	Indicator	Law	Practice
Capacity: 56.2	Resources	75	50
	Independence	75	25
Governance: 54.1	Transparency	75	50
	Accountability	75	25
	Integrity	75	25
Role: 25	Executive oversight	25	
Law and practice average scores		66.6	33.3

STRUCTURE AND ORGANISATION

According to the Constitution of Georgia, the country's judiciary consists of the Constitutional Court and the general courts.²¹⁷

The Constitutional Court is a "judicial body of constitutional control" whose obligation is to ensure compliance with the Constitution of the laws, international agreements and by-laws issued by various government institutions and to consider disputes between state agencies concerning their areas of competency. The Constitutional Court consists of nine judges – three members of the Court are appointed by the president, three are elected by the Parliament and three are appointed by the Supreme Court.²¹⁸

The system of general courts includes district (city) courts, the Court of Appeals and the Supreme Court of Georgia.²¹⁹ The chairperson and judges of the Supreme Court are elected by the Parliament based on the nomination by the High Council of Justice.²²⁰ Judges are ap-

²¹⁷ Constitution of Georgia, Chapter Six, Article 59.

²¹⁸ Ibid., Article 60.

²¹⁹ Organic Law on General Courts, Chapter I, Article 2.

²²⁰ Constitution of Georgia, Chapter Six, Article 61.

pointed to the Court of Appeals and district (city) courts by the High Council of Georgia²²¹ – a body whose duties include the appointment and dismissal of judges, organisation of judicial qualification examinations and development of proposals to reform the judiciary.²²² The High Council of Justice of Georgia consists of 15 members. Of these, eight are elected by the self-governing body of the judges of general courts, five are elected by the Parliament and one is appointed by the President of Georgia. The Supreme Court chairperson is an ex officio member of the High Council of Justice.²²³

The Conference of Judges is a self-governing body of judges of general courts which elects representatives of the judiciary to the High Council of Justice. In addition, it elects the chairperson of the Independent Council of the High School of Justice, the secretary of the High Council of Justice and the judiciary members of the Disciplinary Board of General Courts.²²⁴

RESOURCES (LAW)

Score: 75

To what extent are there laws seeking to ensure appropriate tenure policies, salaries and working conditions of the judiciary?

The law mostly provides judges with access to appropriate resources. The judiciary is also involved in the process of drafting its own budget. The policy of determining the judges' term in office is problematic.

The draft budget of the allocation of funds for general courts (except for the Supreme Court) and the Department of General Courts in the State Budget of Georgia is presented to the Government of Georgia by the High Council of Justice which is authorised, prior to the discussion of the revised version of the draft law on the budget, to present to the Parliament its views on the part of the draft concerning the allocations for general courts and the Department of General Courts.²²⁵

The expenses envisaged for general courts in the State Budget of Georgia can be reduced compared to the corresponding amount for the previous year only with the prior consent of the High Council of Justice of Georgia.²²⁶ The draft budget of the Supreme Court is presented to the government by the chairperson of the Supreme Court.²²⁷

The law does not envisage participation of general courts (except for the Supreme Court) in the process of approving their budgets. The draft budget for general courts is prepared by the Department of General Courts of the High Council of Justice and the law does not directly require that they consider the opinion of the courts in this process.²²⁸

The monthly salary of judges of the first instance is GEL 4,000 (equivalent of USD 1,515), that of the judges of the Court of Appeals – GEL 5,000 (equivalent of USD 1,894), while the salary of the Supreme Court judges is GEL 6,000 (equivalent of USD 2,273). In addition, as a result of the decision made by the High Council of Justice in 2018, a monthly supplement is

221 Organic Law on General Courts, Chapter V, Article 36.

222 Ibid., Chapter VII, Article 49.

223 Ibid., Chapter VII, Article 47.

224 Ibid., Chapter XI, Article 65.

225 Law on General Courts, Article 67.

226 Ibid.

227 Law on General Courts.

228 Ibid., Article 55.

envisaged for judges in the range of GEL 1,350-2,250 depending on position.²²⁹ The average salary in Georgia is GEL 1,202.²³⁰

Despite the fact that the judges' salary is significantly higher than the average salary in the country, it is believed that, given the status of a judge, the salary is still low and needs to be raised.^{231,232}

The issue of pensions is problematic since the amounts of pensions of judges in Georgia are currently much lower than the level envisaged by the international best practice²³³ which implies that the pensions should be approximated to the salaries of former judges as much as possible. Currently, the highest pension in the fixed amount of GEL 1,200 is paid to the former judges of the Supreme Court.²³⁴ Other judges of common courts receive pensions based on the posts they held and the tenure; the amount cannot exceed GEL 560.²³⁵

A judge of the Court of Appeals or district (city) court is appointed for a probationary period of three years through competition (persons with judicial experience are appointed for life). During the probationary period, a judge's performance is appraised annually. After the probationary term is over, based on the results of the annual appraisals, the High Council of Justice discusses and decides whether to grant a judge a lifetime appointment.²³⁶

The trial period rule does not apply to the incumbent or former judges of the Constitutional and Supreme Courts. In addition, based on the 15 February 2017 decision²³⁷ by the Constitutional Court, the trial period no longer applies to the judges of the Court of Appeals and district courts who have at least three years of experience of working in court.

Non-governmental organisations have been protesting the appointment of judges for a trial period for years. The Public Defender has called on the Parliament to abolish this rule since a judge has to constantly think about how his or her rulings will influence the decision concerning his or her lifetime appointment.²³⁸

RESOURCES (PRACTICE)

Score: 50

To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

229 Decision N 1/65 of the High Council of Justice of Georgia, 15 January 2018, (in Georgian), <https://bit.ly/2Xpm0qG>

230 Tabula, GeoStat: Average Monthly Salary Amounts to GEL 1,202, 18 March 2019, (in Georgian), <http://tbl.ge/3jxb>

231 Interview with Dimitri Gvritishvili, High Council of Justice Chairperson, 7 August 2019.

232 Interview with Nazi Janezashvili, non-judicial member of the High Council of Justice, 6 September 2019.

233 Transparency International Georgia, *Georgia National Integrity System Assessment 2015*, 8 June 2015, p. 41, <http://bit.ly/2FUa1u7>

234 Law on General Courts, Article 70.

235 Law on State Compensation and State Academic Stipends, Article 7.

236 Law on General Courts, Article 36.

237 Constitutional Court decision dated 15 February 2017, registration number 3/1/659, available at: <https://bit.ly/2u9wddE>

238 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 68, <http://bit.ly/2QYM9Mk>

The courts have infrastructural and other material resources to operate effectively in practice, however, insufficient number of judges is a problem. According to the experts of the field, this is one of the main reasons for protracted administration of justice.

The insufficient number of judges in the judicial system is a pressing problem.²³⁹²⁴⁰ In the 2017 report, the Public Defender called on the High Council of Justice to adopt the relevant rules and a methodology to assess the degree of the judges' excessive workload.²⁴¹ According to a non-judicial member of the High Council of Justice, the judicial system has corresponding human and other types of resources to fill judicial positions but the Council does not use them, because an influential group within the judiciary which does not want the positions to be filled by candidates who are not loyal to it.²⁴²

Despite the existing problem, to this day, no comprehensive research has been conducted by the judiciary to establish specific reasons why cases are protracted in courts. So far, the High Council of Justice has not taken any effective steps to address the problem either.²⁴³

According to one assessment, Georgia needs at least 410 judges, which significantly exceeds the current number of judges (307, as of April 2020).²⁴⁴

There is a lack of other human resources within the judiciary, too. Judges do not have enough aides and other qualified staffers²⁴⁵²⁴⁶ who would combine various roles required for administering various cases. The salary of aides to the judges is very low, considering their workload.²⁴⁷

INDEPENDENCE (LAW)

Score: 75

To what extent is the judiciary independent by law?

The independence of the judiciary is enshrined in the law. Judges are to obey nothing but the Constitution and the law. Interfering with their work and influencing their decisions is inadmissible. However, the regulations which allow an influential group within the judiciary to have leverage over individual judges is problematic for the independence of the judiciary.

The independence of the judiciary is guaranteed by the Constitution and reinforced by other laws.²⁴⁸ A judge is independent in his or her work and obeys only the Constitution and the law. Any influence over a judge or interference with his or her work with the aim of exerting influence over a decision is prohibited and punishable by law.²⁴⁹ Judges are protected by immunity.

239 Interview with Dimitri Gvritishvili, High Council of Justice Chairperson, 7 August 2019.

240 Interview with Nazi Janezashvili, non-judicial member of the High Council of Justice, 6 September 2019.

241 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 76, <http://bit.ly/2QYM9Mk>

242 Interview with Nazi Janezashvili.

243 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 52, <http://bit.ly/2sBlcF0>

244 USAID/PROLoG, *Assessment of the Need for Judges in Georgia*, 13 August 2018, p. 44, <http://bit.ly/363ysja>

245 Interview with Dimitri Gvritishvili.

246 Interview with Nazi Janezashvili.

247 Ibid.

248 Constitution of Georgia, Chapter Six, Article 59.

249 Ibid., Article 63.

In Georgia, there is a rule of a lifetime judicial appointment²⁵⁰, which is an important factor for judicial independence. Reorganisation or abolition of a court cannot be a reason for dismissing a judge with a lifetime appointment.²⁵¹

The composition of the coordinating system of the judiciary – the High Council of Justice, the rules for electing its members and the rules of procedure described above are important for the independence of the courts.²⁵² As mentioned in the section concerning the structure, out of 15 members of the High Council of Justice, eight (the judges) are elected by the Conference of Judges while the ninth is the chairperson of the Supreme Court. Correspondingly, 60 percent of the Council members are judges.

The rule for appointing the court chairpersons is a serious shortcoming of the law -- specifically, the fact that the chairpersons are appointed by the High Council of Justice (instead of being elected by the judges of the relevant courts). The independence of individual judges can also be endangered by the excessively wide powers of the chairpersons which are not limited to a representative role and include managerial functions too.²⁵³ It is also problematic that court chairpersons can influence the process of case distribution even after the introduction of an electronic system of case distribution²⁵⁴ which is based on the principle of random selection of cases accepted by the court. The shortcomings that exist in the law and the operation of the system complicate the achievement of the goal of the law.^{255 256}

INDEPENDENCE (PRACTICE)

Score: 25

To what extent does the judiciary operate without interference from the government or other actors?

The judiciary does not operate independently. Interference by external actors as well as the unchecked power of an influential group of judges within the system are problematic and hampers the improvement of the system.

The issue of judicial independence is one of the main challenges for the system and for the country. According to the 2019 study by Freedom House, interference of the executive and legislative branches in the work of the judiciary remains an important problem.²⁵⁷

The 2018 US Department of State report refers to the same problem²⁵⁸, noting that, along with external influences, there are internal influences within the judiciary, which has an overall negative impact on the independence of the system and hampers the efforts to improve it.

250 Organic Law on General Courts, Chapter V, Article 36.

251 Constitution of Georgia, Chapter Six, Article 63.

252 Ibid., Chapter VII.

253 Coalition for an Independent and Transparent Judiciary, *The Coalition's Legislative Proposal to Reform the High School of Justice and the Institute of Court Chairs*, 11 April 2018, <http://bit.ly/2sBqwrW>

254 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 5, <http://bit.ly/2sBlcF0>

255 Human Rights Education and Monitoring Centre (EMC), *The New System Case Distribution in Common Courts*, 2018, p. 7, <http://bit.ly/2swTIQK>

256 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 37, <http://bit.ly/2sBlcF0>

257 Freedom House, *Freedom in the World 2019 - Georgia Results*, <https://bit.ly/2O3w9Wa>

258 U.S. Department of State, *Georgia 2018 Human Rights Report*, <https://bit.ly/2If5IKE>

The “cables case” was an important test of judicial independence. In 2015, the court started hearing a criminal case against high-ranking officials of the Ministry of Defence. The indictment in this case was preceded by an open confrontation between then Defence Minister Irakli Alasania and former Prime Minister Bidzina Ivanishvili which eventually resulted in the dismissal of Irakli Alasania from his post on 4 November 2014. The events that unfolded around the “cables case” raised legitimate suspicions that the administration of justice had been flawed and the process – politicised.²⁵⁹

Another example of alleged political persecution and use of the court as a tool to this end was the detention in July 2019 of opposition politician Irakli Okruashvili without sufficient evidence of a criminal offence²⁶⁰ and his subsequent remanding in pre-trial custody.²⁶¹

An influential group which operates within the judiciary remains one of the key challenges with regard to the independence of the judicial system. As a result of the 2013 elections to the High Council of Justice, a small group of judges got hold of a virtually unchecked power of court administration, which they often use to maintain their own power/influence.²⁶² The influential group includes judges who have been associated with an unfair and obedient judicial system for years. Correspondingly, suspicions arise concerning the unhealthy influence exerted by the very body which must ensure judicial independence and keep corruption in check. A more detailed account of the activities of the influential group of judges in chronological order is presented in the Transparency International Georgia article titled *Dream Court Anatomy*.²⁶³

A clear example of the small group of judges abusing their powers was the election of Mikheil Chinchaladze to the post of the chairperson of the Tbilisi Court of Appeals in May 2017. Chinchaladze, who is one of the most influential figures in the judiciary, was elected to this post without any competition, through an opaque process and under suspicious circumstances.²⁶⁴

As noted above in the section about the law, the small group of judges has many levers through which it can influence other judges. These include the mechanism of dismissal of judges, which the Council has frequently used in a selective manner.²⁶⁵ In December 2015, [Tbilisi] City Court Chairman Mamuka Akhvlediani was dismissed from his post with serious procedural violations. Akhvlediani’s dismissal was preceded by his critical remarks concerning members of the High Council of Justice and its chairperson. In addition, he made public the information about a leak of judicial qualification tests from the Council of Justice.²⁶⁶

There are other examples of undue influence on individual judges. In February 2018, Batumi City Court Judge Irakli Shavadze made a public statement that the High Council of Justice had

259 Transparency International Georgia, *Statement Regarding the Tbilisi City Court Ruling on the Case of Rustavi 2 Rendered on November 5*, 6 November 2015, <http://bit.ly/2NPabr9>

260 Transparency International Georgia, *Signs of Political Persecution in Irakli Okruashvili’s Detainment*, 26 July 2019, <http://bit.ly/38czBGT>

261 Netgazeti, *Irakli Okruashvili Left in Pre-Trial Detention*, 27 July 2019, (in Georgian), <http://bit.ly/2mjQpZM>

262 Transparency International Georgia, *Dream Court Anatomy*, 23 February 2019, <http://bit.ly/360cdLb>

263 Ibid.

264 Georgian Young Lawyers’ Association and Transparency International Georgia, *Monitoring Report of the High Council of Justice No 6*, 2018, p. 46, <http://bit.ly/3ahQy4r>

265 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 27, <http://bit.ly/2sBlcF0>

266 Transparency International Georgia, *Dream Court Anatomy*, 23 February 2019, <http://bit.ly/360cdLb>

rejected his candidacy for a lifetime judicial appointment (after the appointment for a three-year trial period) because of a disagreement he had with the chairperson of the Batumi City Court.²⁶⁷

TRANSPARENCY (LAW)

Score: 75

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?

There are certain regulations concerning transparency of the judiciary so that the public can obtain information on the activities and decision-making processes of the judiciary. However, the regulations related to the election of judges are problematic.

The judiciary has an obligation to allow audio, photo and video recording of a trial and, if requested, provide for public access to the recordings.²⁶⁸ The Georgian Public Broadcaster (GPB) has an unrestricted right to record except for the cases where court sessions are closed. If GPB does not use this right, it is transferred to another TV station.²⁶⁹

Starting from 1 January 2017, the rule On Issuing Copies of and Publishing Court Decisions by Common Courts came into effect. According to this rule, a unified database (info.court.ge) was created, making decisions of the courts of all instances available to any interested person while keeping personal data protected.²⁷⁰

However, there are questions regarding the transparency of a number of court procedures. According to the rule adopted by the High Council of Justice, the interviews [with candidates] in the process of selection/appointment of judges are not open to the public. Making the recordings of interviews available to interested persons is not envisaged either.²⁷¹ In addition, the interview protocols and the criteria which the Council used when making decisions are not public even after a judge receives lifetime appointment. Such opaque procedures during the process of appointment diminishes public trust towards the Council.²⁷²

The regulations concerning selection/appointment of judges are especially problematic in terms of transparency. The process of interviews with the candidates is not formalised – the share of the interview in the overall evaluation of a candidate is not defined, which allows for arbitrariness at the interview stage. The stage of background check of the candidates is a mere formality.²⁷³

267 Ibid.

268 Law on General Courts, Article 13.

269 Ibid.

270 High Council of Justice Decision N1/250 of 12 September 2016 on Issuing Copies of and Publishing Court Decisions by Common Courts, (in Georgian), <https://bit.ly/2f8HlhD>

271 Transparency International Georgia, *Coalition Addresses Parliament with Legislative Proposal Concerning Regulation of High Council of Justice*, 6 June 2018, <http://bit.ly/30ygVyK>

272 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 6, <http://bit.ly/2sBlcF0>

273 Georgian Young Lawyers' Association and Transparency International Georgia, *Monitoring Report of the High Council of Justice No 6*, 2018, <http://bit.ly/3ahQy4r>

TRANSPARENCY (PRACTICE)

Score: 50

To what extent does the public have access to judicial information and activities in practice?

In practice, the judiciary is not sufficiently transparent. Formally, the principles of transparency are observed to a certain extent although the key problem is that the most important decisions are made behind closed doors.

The High Council of Justice publishes on its website information about various processes underway in the judicial system²⁷⁴, selection competitions, and the rulings. In addition, interested persons can request and receive²⁷⁵ various kinds of information, as a result of which the principle of transparency is formally observed. However, the High Council of Justice almost never follows the rule of publishing a session agenda at least three business days in advance, and it often happens that the information about the agenda of a session becomes available the night before.²⁷⁶ The Council's selection of the independent inspector in January 2020 was not transparent.²⁷⁷

In its 2019 report, Freedom House identified transparency as a problem in the Georgian judiciary, along with the issue of its independence.²⁷⁸ Local non-governmental organisations concur with this assessment: they negatively assess the situation with regard to transparency of the processes taking place in the judiciary.²⁷⁹

Making the most important decisions behind closed doors within the system has been identified as a special problem.²⁸⁰ A clear example of this was the election of Levan Murusidze to the Court of Appeals in late 2015.²⁸¹ The main argument used in favour of Murusidze's election was his "reputation" [and] the support he enjoyed among the judges.²⁸² Two years later, Eva Gotsiridze, candidate for a Constitutional Court judge's post, confirmed that, when supporting Murusidze, they did not follow the law and that the procedure did not comply with the relevant standards.²⁸³

Researchers consider it a significant problem that an unprecedentedly high number of interviews with judicial candidates are being held behind closed doors, while the identity and the biographical data of the participants in the competition announced for the positions of the Independent Inspector and the chair of the Management Department are kept secret.²⁸⁴

274 High Council of Justice website - <http://hcoj.gov.ge/>

275 Interview with Nazi Janezashvili, non-judicial member of the High Council of Justice, 6 September 2019.

276 Ibid.

277 The Coalition Assesses Process of Independent Inspector's Selection Negatively, 20 January 2020 (in Georgian), <https://bit.ly/2RA9VgC>

278 Freedom House, *Freedom in the World 2019 - Georgia Results*, <https://bit.ly/2O3w9Wa>

279 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 55, <http://bit.ly/2sBlcF0>

280 Interview with Nazi Janezashvili.

281 Radio Freedom Europe / Radio Liberty (Georgian Service), *Levan Murusidze is a Judge Again*, 25 December 2015, (in Georgian), <http://bit.ly/2Z8ZOkP>

282 High Council of Justice, *Statement by Non-Judicial Members of the High Council of Justice*, 25 December 2015, (in Georgian), <http://bit.ly/2ZbPl2Z>

283 Liberali, *Eva Gotsiridze: The issue of Murusidze was not in compliance with criteria and standards*, 28 November 2017, (in Georgian), <http://bit.ly/2HTWeW3>

284 Georgian Young Lawyers' Association and Transparency International Georgia, *Monitoring Report of the High Council of Justice No 6*, 2018, p. 17, <http://bit.ly/3ahQy4r>

Transparency of the judicial system became particularly questionable during the events that unfolded in the High Council of Justice in late 2018 when the Council, with gross procedural violations, expedited the presentation for parliamentary approval of a 10-strong list of judges to receive lifetime appointment to the Supreme Court. Public discussion and even minimal standards of transparency were ignored in the process.²⁸⁵ Against the background of public protest, the process of judicial appointments was temporarily suspended.²⁸⁶

The High Council of Justice launched the new process of selecting candidates to present to the Parliament in May 2019, completing it with the presentation to the legislative body of a 20-strong list on 4 September. This time, the degree of formal transparency was higher.²⁸⁷ However, the most important decisions were still made behind closed doors.²⁸⁸ Overall, the process demonstrated that the High Council of Justice was once again provided with an opportunity to promote the interests of the influential group and of the government.²⁸⁹

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?

The legislation mostly includes sufficient provisions to ensure the accountability of judges.

The law requires judges to give reasons for their decisions in different types of cases. For example, the Code of Criminal Proceedings expressly states that both provisional and final decisions in criminal cases must be “substantiated”.²⁹⁰ The Code of Administrative Proceedings also requires courts to provide reasons for their decisions.²⁹¹ The Code of Civil Proceedings only allows judges to not give reasons for their decisions if the decision is not subject to an appeal or if the parties declare that they have no intention of challenging the decision in a higher court.²⁹²

The Law on General Courts lists the reasons for starting disciplinary proceedings against judges, types of disciplinary violations, terms of disciplinary justice administration, types of disciplinary penalties, measures of disciplinary liability and so on. Disciplinary proceedings against a judge are launched by the Independent Inspector who conducts preliminary review of the case and an inquiry, and presents the findings and opinions to the High Council of Justice.²⁹³ The fact that the High Council of Justice appoints and dismisses the Inspector could potentially undermine the inspector’s independence.²⁹⁴

285 Coalition for an Independent and Transparent Judiciary, *The Coalition’s Address to the Parliament*, 27 December 2018, <http://bit.ly/2QZv5Wn>

286 Netgazeti, *Kobakhidze: Criteria for selecting judges will be developed, an updated list will be presented*, 12 January 2019, (in Georgian), <http://bit.ly/2mjiGzE>

287 Coalition for an Independent and Transparent Judiciary, *The Coalition Assesses the Process of Selection of Supreme Court justices at the High Council of Justice*, 12 September 2019, <http://bit.ly/2R0AlsE>

288 Interview with Nazi Janezashvili, non-judicial member of the High Council of Justice, 6 September 2019.

289 Coalition for an Independent and Transparent Judiciary, *The Coalition Assesses the Process of Selection of Supreme Court justices at the High Council of Justice*, 12 September 2019, <http://bit.ly/2R0AlsE>

290 Code of Criminal Proceedings, Articles 194, 259.

291 Code of Administrative Proceedings, Articles 13 (2), 21 (3), 21 (13), 21 (20), 26.

292 Code of Civil Proceedings, Articles 250, 257 (1).

293 Law on General Courts, Chapter 13.

294 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 40, <http://bit.ly/2sBlcF0>

ACCOUNTABILITY (PRACTICE)

Score: 25

To what extent do members of the judiciary have to report and be answerable for their actions in practice?

Judges are often not answerable for their actions. The High Council of Justice is passive when it comes to responding to the cases related to the impartiality and independence of the judiciary. In addition, the issues of protraction of cases and substantiation of decisions are problematic.

The Public Defender has highlighted the issues of case delay and lack of substantiation for years. The courts often fail to consider cases within reasonable and legally defined timeframes.²⁹⁵ Examples of making unsubstantiated decisions also exist.²⁹⁶

The issue of disciplinary justice administration vis-a-vis judges is problematic. The High Council of Justice offers inadequate response to the proposals concerning disciplinary responsibility of judges.²⁹⁷

The High Council of Justice is passive with regard to the process of disciplinary justice administration. For years, the Council has failed to initiate investigations into numerous cases, raising legitimate questions about the impartiality and the independence of the judiciary.²⁹⁸ In 2006-2017, no judge was held accountable on the grounds of committing a corruption-related offence. Information disseminated about alleged cases of corruption is usually left without an appropriate response by the Council, and legitimate questions of the public remain unanswered.²⁹⁹

In recent years, judges have been involved in cases which required the launch of disciplinary proceedings but were not addressed properly. For example, in 2016, Transparency International Georgia addressed the High Council of Justice over unlawful use of the court's resources by Valerian Tsertsvadze, who served as the Court of Appeals chairman at the time, but the Council did not take action.³⁰⁰

In terms of accountability, recent events that unfolded in the High Council of Justice when the Council presented to the Parliament a 10-strong list of candidates for a lifetime appointment to the Supreme Court have drawn attention as well. The list included the judges whose integrity raised many questions due to the decisions they had made in the past.³⁰¹

295 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2018*, p. 83, <http://bit.ly/2Tqlolu>

296 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 74, <http://bit.ly/2QYM9Mk>

297 Ibid., p. 67.

298 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 42, <http://bit.ly/2sBlcF0>

299 Ibid.

300 Ibid.

301 Coalition for an Independent and Transparent Judiciary, *The Coalition's Address to the Parliament*, 27 December 2018, <http://bit.ly/30ucrc7>

During the events that have recently unfolded within the judiciary system, the judges who are members of the influential group operating within the judiciary, Sergo Metopishvili³⁰², Dimitri Gvritishvili³⁰³, Levan Murusidze,³⁰⁴ have more than once violated the Code of Ethics by voicing political messages and participating in political discussions. However, the question of their disciplinary responsibility was never raised. For this reason, former Georgian Dream members Eka Beselia and Gedevan Popkhadze prepared a lawsuit against Sergo Metopishvili.³⁰⁵

INTEGRITY (LAW)

Score: 75

To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?

The law contains certain legal mechanisms designed to ensure the integrity of judges. However, the issue of judicial appointments is problematic: The law fails to ensure that the judiciary is staffed with people who meet the integrity requirements.

According to Georgian legislation, judicial candidates are selected based on two main criteria: integrity and competence. The integrity criterion implies the evaluation of a candidate's personal qualities and professional reputation.³⁰⁶ However, only competence is assessed based on a points system, which makes it impossible to determine how a candidate's integrity was assessed, leaving the High Council of Justice with wide discretion and opportunities for subjective assessments.

According to the Constitution, a judge is independent and his or her decisions must not be influenced by political or social relations, interests of parties, public pressure or other relationships.³⁰⁷

The Law of Georgia on the Conflict of Interest and Corruption in Public Institution applies to the judges, setting restrictions on gifts and entrepreneurial activities, and requiring the judges to make public their finances and activities.³⁰⁸

The issue of judicial appointment discussed earlier is also problematic in terms of the appointment of judges who meet high standards of integrity. The opaque procedures for the selection and the appointment of judges fail to ensure that the system is staffed by judges who meet the requirements of integrity.³⁰⁹

302 Tabula, *Sergo Metopishvili about Eka Beselia*, 16 January 2019, (in Georgian), <http://bit.ly/2HXlyJK>

303 On.ge, *Where were the NGOs prior to 2012? – Judge Dimitri Gvritishvili*, 30 January 2019, (in Georgian), <http://bit.ly/2WOHxff>

304 Netgazeti, *Levan Murusidze's Debate with Shalva Shavgulidze*, 1 May 2019, (in Georgian), <http://bit.ly/2XuYNU2>

305 Imedi News, *Eka Beselia Prepares a Lawsuit against Sergo Metopishvili*, 25 January 2019, (in Georgian), <http://bit.ly/2HUBBZQ>

306 Law on General Courts, Article 35.

307 Constitution of Georgia, Article 63.

308 Law on Conflict of Interest and Corruption in Public Service.

309 Georgian Young Lawyers' Association and Transparency International Georgia, *Monitoring Report of the High Council of Justice No 6*, 2018, p. 46, <http://bit.ly/3ahQy4r>

INTEGRITY (PRACTICE)

Score: 25

To what extent is the integrity of members of the judiciary ensured in practice?

In practice, the integrity of members of the judiciary is not ensured. It is especially problematic that judges are involved in cases which raise legitimate questions concerning possible corrupt deals.

The public views the work of the judiciary negatively. According to recent surveys, nearly half of the Georgian population (49 percent) believes that corruption in the judiciary is widespread.³¹⁰ It is also noteworthy that only 19 percent of the respondents say that they trust Georgian judges fully or to some extent.³¹¹

Judges also involved in cases related to possible corrupt deals. In 2017, the cigarette importer company Philip Morris was ordered to pay GEL 93 million to Tbilisi Tobacco.³¹² The court hearings took place in an expedited manner and with alleged procedural violations, while the court decision was made without an appropriate reasoning. There were many circumstances indicating that the case was not considered in an objective manner and in violation of the right to due process.³¹³ The case was heard by a judge who, on the same day, imposed a fine of about GEL 270 million on another international tobacco producer, British American Tobacco, in favour of a local tobacco producer company, Omega.³¹⁴

Against the background of a strong domestic and international outcry, the Tbilisi Court of Appeals completely overturned the decision made by the court of first instance and annulled the obligation to pay up to GEL 93 million imposed on Philip Morris.³¹⁵ The recordings concerning Omega Group which were disseminated in 2018 showed that the members of the judiciary were likely to have been involved in a corrupt deal.³¹⁶

In terms of the integrity of the system, the following merits attention: in February 2016, then Tbilisi City Court Chairman Mamuka Akhvlediani disseminated information about tests and written assignments of cases being leaked prior to the judicial qualification examinations held in November 2015.³¹⁷ Nino Gvenetadze, then chairwoman of the Supreme Court, featured in the case of leaked tests. According to Mamuka Akhvlediani, Gvenetadze was responsible

310 National Democratic Institute (NDI), *Public Attitudes in Georgia*, December 2018, <http://bit.ly/38rDCXW>

311 Caucasus Research Resource Centre, *Knowledge and Attitudes of the Population of Georgia towards Judiciary - Executive Summary*, 2018, <http://bit.ly/3aCHs2z>

312 Transparency International Georgia, *The Court decision on the imposition of up to GEL 93 million on Philip Morris raises questions*, 30 March 2017, <http://bit.ly/2NAKcDq>

313 Ibid.

314 Ibid.

315 Transparency International Georgia, *Smoke of Corruption: The Grand Scheme to Allocate the Tobacco Market*, 3 October 2018, <http://bit.ly/2TvcW4y>

316 Ibid.

317 Tabula, *Akhvlediani Speaks about a Leak of Judiciary Test Results*, 2 February 2016, (in Georgian) <http://tbl.ge/7p2>

for the issue of tests.³¹⁸ Gvenetadze refuted her connection to the leak.³¹⁹ In February 2018, however, she resigned from the post of the Supreme Court chairperson without providing a credible explanation.³²⁰

ROLE: EXECUTIVE OVERSIGHT (LAW AND PRACTICE)

Score: 25

To what extent does the judiciary provide effective oversight of the executive?

The law provides the judiciary with appropriate authority to exercise oversight of the executive branch.

The Constitutional Court has the right to decide whether the decisions made by the president and the cabinet are in compliance with the Constitution.³²¹ In parallel, the Constitution gives citizens the right to appeal to court in order to receive compensation for the damages which occurred as a result of illegal actions committed by the government agencies. The General Administrative Code entitles each citizen to appeal against the decisions made by the government agencies in court.³²²

The court, on the basis of a legal action initiated by the President of Georgia, the Parliament, the government, the High Council of Justice, the General Prosecutor's Office, the National Bank Council, the General Auditor, the Public Defender or the supreme representative or executive bodies of the autonomous republics, considers disputes concerning the authority of a corresponding body.³²³

In practice, the judiciary oversight of the executive is very weak. The events that have unfolded in recent years have raised serious questions concerning the influence of the executive over the judiciary and its concerted actions with the influential group of judges.

In the process of implementing the Third Wave of judicial reform which began in 2014, the political support offered by the government to the influential group of judges became obvious. As a consequence, many initiatives that were initially included in the set of legislative proposals disappeared and the critically important reform was hampered.³²⁴

The high-profile criminal cases in which the judiciary assumed the role of the promoter of the executive branch's interests merit special attention. The case of detaining the members of Birzha Mafia band and remanding them in pre-trial custody is interesting in this respect as it was clear from the start that the detention of the singers was related to the video they

318 Netgazeti, Mamuka Akhvlediani: *Nino Gvenetadze was the one collecting judicial qualification tests*, 23 February 2016 (in Georgian), <https://netgazeti.ge/law/96830/>

319 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 33, <http://bit.ly/2sBlcF0>

320 Transparency International Georgia, *Resignation of the Chairperson of the Supreme Court of Georgia Raises Questions*, 24 August 2018, <http://bit.ly/2G0TkgG>

321 Constitution of Georgia, Article 89.

322 General Administrative Code, Article 178.

323 Constitution of Georgia, Article 60.

324 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 30, <http://bit.ly/2sBlcF0>

had made.³²⁵ As a result of the public outcry, the singers were released from pre-trial detention.³²⁶³²⁷ Later, the Prosecutor's Office closed the case.³²⁸

The case of Gigi Ugulava is an example of conducting a politically motivated trial. In March 2015, the court ruled to remand the former Tbilisi mayor in pre-trial custody based on the provision which was later deemed unconstitutional. As a result, he spent over a year in pre-trial detention without a guilty verdict being passed against him.³²⁹

The serious violations committed by courts during the hearings of the cases of anti-government protests' participants arrested in the autumn of 2019 were particularly alarming as they raised further doubts concerning the judiciary's ability to serve as a check on the executive branch.³³⁰

325 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 107, <http://bit.ly/2QYM9Mk>

326 Netgazeti, *Rapper Giorgi Kiburia Released from Pre-Trial Detention*, 16 June 2017, (in Georgian), <https://netgazeti.ge/news/200777/>

327 Netgazeti, *Birzha Mafia member Mishka Mgaloblishvili Released from Pre-Trial Detention*, 16 June 2017, (in Georgian), <https://netgazeti.ge/news/200718/>

328 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 107, <http://bit.ly/2QYM9Mk>

329 Transparency International Georgia, *Corruption Risks in Georgian Judiciary*, 5 July 2018, p. 26, <http://bit.ly/2sBlcF0>

330 Transparency International Georgia, *Trials of Detained Demonstrators Were Held with Grave Violations*, 25 November 2019, <http://bit.ly/2FZ4fHA>

PUBLIC ADMINISTRATION

The legal framework governing the public administration's activities contains important provisions designed to ensure its independence, transparency, accountability and integrity. However, the public administration is not independent in practice due to undue political influence on its activities, while the level of transparency is uneven across the public administration. The enforcement of the legislative provisions designed to prevent corruption in the public administration is weak. Despite positive reforms, significant corruption risks persist in the public procurement system.

Public Administration Final score: 52.7			
Dimension	Indicator	Law	Practice
Capacity: 50	Resources		50
	Independence	75	25
Governance: 66.6	Transparency	75	50
	Accountability	100	75
	Integrity	75	25
Role: 41.6	Public education		25
	Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption		50
	Reduce Corruption Risks by Safeguarding Integrity in Public Procurement	50	
Law and practice average scores		75	43.7

STRUCTURE AND ORGANIZATION

Georgian law defines “civil service” as employment in central and municipal government bodies and various public agencies (such as the National Bank, the State Audit Office, and the Central Electoral Commission), as well as in some legal entities of public law (LEPLs, semi-autonomous bodies performing various public functions under the general supervision of the state).³³¹

The Civil Service Bureau is the body responsible for facilitating and developing a uniform state policy on civil service and coordinating relevant activities. The Bureau is also responsible for coordinating the management of human resources within public agencies, collecting

³³¹ Law on Civil Service, adopted on 27 October 2015, Article 3.

the asset declarations of public officials, analysing the state of affairs in public service and presenting relevant recommendations to the legislature.³³²

RESOURCES (PRACTICE)

Score: 50

To what extent does the public sector have adequate resources to effectively carry out its duties

Georgia's public administration offers competitive salaries and its members have sufficient resources for the effective delivery of public services. The lack of protection from undue external interference, however, could render civil service jobs less attractive for strong potential candidates.

Civil service jobs are generally attractive for citizens. According to a 2017 survey, 79% of the respondents in Georgia consider employment in public institutions "prestigious."³³³ Salaries in civil service are competitive compared with those in the private sector. According to official statistics, the average salary in the "public administration, defense, and mandatory social protection" sector was GEL 1,268 (above the national average of GEL 1,124).³³⁴

The amount of funding allocated to the public administration appears to be sufficient for the provision of proper working conditions. In a 2017 survey of civil servants, 81% of the respondents agreed with the statement that they have the necessary materials and equipment to do their jobs.³³⁵ The citizens' overall view of the quality of public services supports this assertion -- 60% of respondents in a 2017 survey were "satisfied" and another 28% were "very satisfied" with the most recent public service which they had received.³³⁶ In a positive development, recent changes in Georgia's Budget Code³³⁷ will lead to a significant increase in the funding of local government bodies due to the fact that a significant portion of funds generated from the VAT income tax will go towards funding of local and municipal governments in Georgia.³³⁸

Still, the civil service appears to face problems in terms of the professionalism of its members. According to a 2019 survey, only 41 percent of civil servants agreed with the statement that civil service employs professionals (down from 50 percent in 2016). The same figure for respondents from the general population also dropped from 74 to 58 percent between 2016 and 2019.³³⁹ The lack of the civil service's independence (discussed in the relevant section of this chapter) and the resulting lack of job security could deter talented and qualified potential candidates from entering civil service.

332 Ibid., Article 20.

333 UNDP, *Public Administration Reform Support in Georgia - Survey of Population Sentiments and Attitudes*, January 2017, (in Georgian), <http://bit.ly/30DrPTV>

334 The National Statistics Office of Georgia, http://geostat.ge/?action=page&p_id=148&lang=geo (Accessed on March 3, 2019)

335 UNDP, *Public Administration Reform Support in Georgia - Survey of Civil Servants*, January 2017, (in Georgian), <http://bit.ly/38tPE3f>

336 Ibid.

337 Budget Code, adopted on 18 December 2009, Chapter 19, Article 114⁵.

338 Transparency International Georgia, *Draft State Budget of Georgia: Analysis and Recommendations*, 7 November 2018, <http://bit.ly/3aqXhcp>

339 UNDP, *Public Attitudes towards Public Administration Reform (2019)*, 28 November 2019, <http://bit.ly/2Np3bRo>

INDEPENDENCE (LAW)

Score: 75

To what extent is the independence of the public sector safeguarded by law?

Georgia's civil service law contains important provisions designed to safeguard the independence of public administration but fails to sufficiently protect civil servants from undue political interference in their activities.

The law lists impartiality and political neutrality among the fundamental principles of civil service and contains a number of provisions that are designed to ensure the independence of civil servants. These include provisions on employee equality (Article 9), merit-based employment (Article 11), unlimited tenure (Article 33), competitive selection process (article 34), safe and equal working environment (Article 56). The law's requirement that civil service vacancies be filled through competition (with limited exceptions) is designed to prevent undue political interference in the appointments process.³⁴⁰ Forcing an individual to resign from employment is a punishable offence under the Georgian Criminal Code.³⁴¹

However, according to the OECD ACN, the current legal provisions "are not sufficient to protect professional civil servants from undue political influence by political appointees in practice." The organization highlighted as a problem the fact that political officials are direct supervisors of civil servants in Georgia and recommended that Georgia introduce the position of a senior civil servant to address the problem.³⁴² However, the recommendation has not been fulfilled.

INDEPENDENCE (PRACTICE)

Score: 25

To what extent are civil servants free from external interference in their activities?

Civil servants are not sufficiently protected from external pressure and undue interference in their activities.

According to a 2019 survey, only 42 percent of civil servants believe that the civil service is free from political influence (down from 56 percent in 2016). According to the same survey, 56 percent of the citizens think that decisions in public institutions are made according to political orders (up from 34 percent in 2016).³⁴³

When the last change of ruling party occurred in Georgia in 2012, it was followed by the departure of over 5,000 employees from civil service and the employment of more than 6,500 new civil servants who were recruited without competition in an overwhelming majority of cases.³⁴⁴ There has been no change of government since then, so it is impossible to determine whether subsequent changes in the legal framework have created sufficient safeguards against such mass dismissals.

³⁴⁰ Law on Civil Service, Articles 9, 11, 33, 34, 56.

³⁴¹ Criminal Code, adopted on 22 July 1999, Chapter 23, Articles 168, 169.

³⁴² OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the*

Istanbul Anti-Corruption Action Plan, 15 September 2016, pp. 30-31, <http://bit.ly/30krxRv>

³⁴³ UNDP, *Public Attitudes towards Public Administration Reform (2019)*, 28 November 2019, <http://bit.ly/2Np3bRo>

³⁴⁴ Transparency International Georgia, *Staffing Changes in the Civil Service After the 2012 Parliamentary Elections*, 12 August 2013, <http://bit.ly/35TWxc8>

Nevertheless, repeated reports by international and local observer organizations regarding the pressure on public sector employees (including likely cases of politically motivated dismissals of civil servants) during the 2016 parliamentary, the 2017 local, and the 2018 presidential elections indicate that civil servants remain unprotected from the ruling party's undue influence in practice.³⁴⁵

There is further evidence that the government does not sufficiently protect and respect the independence and autonomy of civil service. For example, the authorities have failed to conduct an inquiry into allegations by Tamar Bagratia, former head of the Environmental Protection Agency, who publicly accused Deputy Minister of Agriculture of exerting pressure on her and unduly interfering in the appointment of the agency's deputy chief.³⁴⁶ During the 2018 presidential election, a member of the Parliament from the ruling party publicly declared that public sector employees have a duty to vote for the ruling party's candidates in elections.³⁴⁷ Another prominent example is the case of Tamaz Akhobadze and Ana Subeliani who were dismissed from the Crime Prevention Center of Georgia's Ministry of Justice in 2014, allegedly because of the Justice Minister's personal negative attitude toward them.³⁴⁸ A court ruled in 2017 that they had been dismissed based on subjective attitudes by specific officials, rather than the quality of their work, and ordered their reinstatement.³⁴⁹

According to the Public Defender, there have been frequent violations of the legal provisions concerning labor relations toward civil servants, including violations concerning recruitment and dismissal.³⁵⁰

TRANSPARENCY (LAW)

Score: 75

To what extent are there provisions in place to ensure transparency in financial, human resources and information management of the public service?

Georgian legislation generally ensures citizens' access to the information about the public sector, although the lack of an enforcement mechanism to deal with possible violations of the relevant provisions is a notable gap.

Senior members of civil service are required to file annual asset declarations. These declarations are reviewed by the Civil Service Bureau which can impose fines for inaccuracies in the

345 International Society for Fair Elections and Democracy (ISFED), Final Report of the Observation Mission of the 2016 Parliamentary Elections, 2017, p. 7; The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Georgia Parliamentary Elections, 8 and 30 October 2016, OSCE/ODIHR Election Observation Mission Final Report, 3 February 2017, p. 12; The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Georgia Local Elections, 21 October and 12 November 2017, OSCE/ODIHR Election Observation Mission Final Report, 23 February 2018, p. 2; The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Georgia Presidential Election, 28 October and 28 November 2018, OSCE/ODIHR Election Observation Mission Final Report, 28 February 2019, p. 27.

346 The Georgian Young Lawyers Association (GYLA), *Deputy Minister of Agriculture Has Violated Requirements of the Law of Georgia on Civil Service*, 26 March 2018, <http://bit.ly/30IFiPK>

347 Netgazeti, *Makrakhidze on Public Sector Employees: Why should they need to be reminded who they should vote for?*, 3 November 2018, (in Georgian), <https://netgazeti.ge/news/316765/>

348 Tabula, *Court: Two employees of the Ministry of Justice were released illegally*, 5 April 2016, (in Georgian), <http://bit.ly/2t59QJH>

349 Transparency International Georgia, *Statement on the Case of Ana Subeliani and Tamaz Akhobadze*, 31 May 2018, <http://bit.ly/2FQcd5C>

350 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2017*, p. 127, <http://bit.ly/2QYM9Mk>

declarations and is required to forward any case to the law enforcement agencies if it discovers evidence of a crime.³⁵¹ In a negative development, a legislative amendment adopted in April 2019 makes it legal for public officials not to disclose their connections with companies which have conducted no transactions over the past six years or more.³⁵²

The rules for the management of public information are set out in the General Administrative Code, which states that everyone is entitled to access public information stored in administrative bodies unless it contains a state, a commercial or a personal secret. Individuals seeking access to public information must submit a written request and the relevant public agency is required to provide the information immediately or no later than 10 days, if additional time is required to collect the information. The Code also contains provisions on the proactive publication of information, although the types of information to be released proactively by different public institutions are defined through secondary legislation adopted by central and local government bodies.³⁵³

There are a number of significant gaps in the access to information legislation, including the absence of a designated central body with the authority to oversee the compliance of public institutions with the regulations concerning the access to information, as well as the lack of clear sanctions and a mechanism for their application. Moreover, the provisions on exemptions from access to information are not sufficiently clear and the law does not apply to state-owned enterprises or require public agencies to provide information electronically in response to requests.³⁵⁴

The legal framework contains provisions regarding the transparency of public procurement. The State Procurement Agency (SPA) has a legal responsibility to create a single database of public procurement records and to monitor procurement in order to ensure that the principles of transparency and accountability are followed. Procuring bodies must submit procurement reports to the SPA and the reports must be made available to any interested individual. All bidding is to be conducted electronically and documents must be publicly accessible via a unified online system.³⁵⁵ On the negative side, secret state procurement remains poorly regulated. According to a 2017 report by the Georgian Young Lawyers Association, the relevant regulations contain significant ambiguities regarding the time frames and the procedure of secret procurement, the criteria for awarding contracts, reporting and publication of information.³⁵⁶ The OECD ACN's recommendation to regulate secret procurement through primary rather than secondary legislation has not been fulfilled.³⁵⁷

To ensure the transparency of the recruitment process, the Law on Civil Service requires that all civil service vacancies are announced through a dedicated website run by the Civil Service Bureau.³⁵⁸ One problematic exception is that public institutions can recruit "persons employed through labour contractors" (auxiliary staff without a civil servant's status) without competitive selection.³⁵⁹

351 Law on Conflict of Interest and Corruption in Public Institution, Article 18(1).

352 Ibid.

353 General Administrative Code, Articles 10, 35-36, 37.

354 Open Society Georgia Foundation, *Reforming Georgia's Access to Information Law*, July 2016, pp. 4-6, <http://bit.ly/30kDhDv>

355 Law on State Procurement, Articles 4, 12 (1), 22.

356 Georgian Young Lawyers' Association, *State Secret Procurement Rule*, 2017, pp. 10-11, <http://bit.ly/36VijxM>

357 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, pp. 94-106, <http://bit.ly/2NnA0hw>

358 Portal for announcing civil service vacancies - <https://www.hr.gov.ge/>

359 Law on Civil Service, Article, 83.

TRANSPARENCY (PRACTICE)

Score: 50

To what extent are the provisions on transparency in financial, human resources and information management in the public sector effectively implemented?

Georgia's public agencies provide requested information in most cases and the public procurement process is generally transparent, while asset disclosure takes place in practice too, although the regulations on proactive publication of information are enforced unevenly across the public sector.

Asset declarations of public officials are published through a government portal.³⁶⁰ The Civil Service Bureau (CSB) reviewed 379 declarations in 2018 and imposed fines in 78% of the cases.³⁶¹

Georgia has generally succeeded in ensuring transparency of public procurement: Tenders for government contracts are conducted through a special website and the relevant documents are posted there too.³⁶²

The public sector is generally responsive to requests for public information. According to IDFI (a Georgian CSO conducting annual access to information surveys), public agencies responded to 88% of requests in 2017 and provided complete information in 76% of the cases.³⁶³ The situation is worse in terms of proactive publication of information: Although 85% of 100 public institutions reviewed in a 2019 study have created websites and are publishing information proactively, no institution has published all the information that it is required to publish by law. There is also great variation between different agencies, as the Ministry of Education has published 98% of the relevant information, while the Government Administration has only published 39%.³⁶⁴

The gaps in the law discussed in the previous section mean that there is no effective enforcement of access to information regulations and no sanctions are applied for the failure to comply with the law.

ACCOUNTABILITY (LAW)

Score: 100

To what extent are there provisions in place to ensure that public sector employees have to report and be answerable for their actions?

Georgian law establishes a sound framework for the accountability of public sector employees. Whistle-blowers can report wrongdoings through a variety of channels and civil servants can face charges for different office-related crimes, while citizens can also file complaints

360 Database of asset declarations filed by public officials - <https://declaration.gov.ge>

361 Civil Service Bureau, *Report on Civil Service Bureau's Activities in 2018*, pp 14-18, (in Georgian), <http://bit.ly/3895hNI>

362 Georgia's unified electronic public procurement portal - <https://tenders.procurement.gov.ge>

363 Institute for Development of Freedom of Information, *Access to Open Data in Georgia and Visegrad Countries*, 29 May 2018, pp. 9-10, https://idfi.ge/en/access_to_open_data_ing_georgia_and_visegrad_countries

364 Institute for Development of Freedom of Information, *Proactive Disclosure of Public Information on Georgian Public Institution Websites*, 14 June 2019, p. 4, <http://bit.ly/2QRwa2f>

against public bodies over their decisions and actions. The State Audit Office has the authority to audit public agencies which are also required to set up internal audit units.

Georgia has strong legal provisions on whistle-blower protection. Whistle-blowers can report violations through a variety of channels, including a public agency's internal mechanism, an investigator, a prosecutor, or the Public Defender. The law prohibits intimidation, pressure or discrimination against whistle-blowers, who are also entitled to request protection if they or their family members are threatened. If civil, administrative or criminal proceedings are launched against a whistle-blower, the relevant agency is required to prove that the charges are not linked to the fact of whistleblowing. A whistleblowing complaint cannot be adjudicated by an official against whom it is directed or an official who has a direct or indirect interest in the outcome and whose impartiality is therefore questionable.³⁶⁵

Complaints regarding the decisions and actions of administrative bodies (public agencies) can be filed with the agency in question, a superior agency or a court.³⁶⁶ Administrative bodies are required to allow all interested parties to present their opinion during the adjudication of a complaint.³⁶⁷ Under the Criminal Code, public sector employees can be charged with different office-related crimes, including bribery, abuse of authority, excess of power, influence peddling and forgery among others.³⁶⁸

The State Audit Office has the authority to audit public agencies. The Office is authorized to access all relevant materials and is required to inform the law enforcement bodies of any suspected criminal activity.³⁶⁹ Additionally, public agencies are required to set up internal audit units which are responsible for ensuring the compliance of the activities of those agencies with the law.³⁷⁰

All public institutions are accountable to the Parliament of Georgia. The Parliament has the right to request information from a state institution, summon a public official to report/testify before the parliament and launch an inquiry into a public institution's activities.³⁷¹

ACCOUNTABILITY (PRACTICE)

Score: 75

To what extent do public sector employees have to report and be answerable for their actions in practice?

The law enforcement agencies, the judiciary and the State Audit Office are generally effective in ensuring the public sector's accountability. However, the process of internal audit remains weak and no evaluation has been conducted to assess the effectiveness of the whistleblowing system in practice.

The judiciary's performance in terms of ensuring the public sector accountability has generally improved in recent years. There has been a gradual increase in the number of court cases won by private parties against public bodies between 2015-2018: 61% in 2015, 64% in 2016, 69% in 2017 and 66% in 2018.³⁷²

³⁶⁵ Law on Conflict of Interest and Corruption in Public Institution, Chapter V(1).

³⁶⁶ General Administrative Code, Articles 177-178.

³⁶⁷ Ibid., Article 194.

³⁶⁸ Criminal Code, Articles 332, 333, 338, 339.

³⁶⁹ Law on State Audit Office, Articles 6, 20.

³⁷⁰ Law on State Internal Financial Control, Articles 4, 18.

³⁷¹ Parliamentary Rules of Procedure, Chapter XIII.

³⁷² Supreme Court, Judicial Statistics, (in Georgian), <http://www.supremecourt.ge/statistics/>

Public sector employees are also held accountable in practice for the violation of the Criminal Code. In 2018, 133 individuals were charged with different corruption-related offences,³⁷³ and 118 were convicted for corruption and office-related crimes.³⁷⁴

The effectiveness of the whistle-blower protection system in practice is doubtful. The government has not published comprehensive statistics regarding the system's operation. According to a report which the government submitted to the OECD ACN in 2017, 68 cases of whistleblowing had been registered through a special website (<https://mkhileba.gov.ge>) administered by the Civil Service Bureau.³⁷⁵ However, more recent figures for this channel have not been made available and neither are there statistics regarding the use of other whistleblowing channels. The government is yet to conduct an evaluation of the effectiveness of whistleblowing channels.³⁷⁶

In November 2018, when a group of CSOs made a public statement about an alleged plot to rig the second round of the presidential election, the Prosecutor's Office insisted on the CSO's disclosing the identity of their source within a public agency despite the latter's wish to remain anonymous.³⁷⁷ This attitude among the law enforcement bodies is unlikely to encourage potential whistle-blowers in the future. Worryingly, according to a 2019 survey, 44 percent of civil servants believe that they can be punished for filing a complaint against a violation with their agency.³⁷⁸

Public sector agencies are inspected by the State Audit Office which conducted 90 audits in 2018 and forwarded audit materials to the law enforcement agencies for further examination in 33 cases.³⁷⁹ However, internal audit appears to be less effective. A 2018 assessment by the Finance Ministry's relevant department identified a number of shortcomings, including those concerning human resources.³⁸⁰ The OECD ACN noted in March 2019 that the government had made no progress in implementing its 2016 recommendation to strengthen the capacity of internal audit units.³⁸¹

The Public Procurement Agency's Dispute Resolution Council is an accountability mechanism in the procurement process. The Board received 1,040 complaints in 2018 and ruled in favour of the complainants in 588 disputes.³⁸²

373 State Security Service, *Annual Report for 2018*, p. 17, (in Georgian), <http://bit.ly/2ReBSdM>

374 Supreme Court, *Statistics on Criminal Cases*, (in Georgian), <http://bit.ly/36VoTEu>

375 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, p. 47, <http://bit.ly/2NnA0hw>

376 Ibid., p. 49-50.

377 Liberali, *Gigauri: We did not name the source, but we did mention the place of meeting and printing of the protocol*, 21 November 2018, (in Georgian), <http://bit.ly/387G8lQ>

378 UNDP, *Public Attitudes towards Public Administration Reform (2019)*, 28 November 2019, <http://bit.ly/2Np3bRo>

379 State Audit Office, *Report on the State Audit Office's Activities in 2018*, 2019 (in Georgian), p. 6, <http://bit.ly/35S1qT1>

380 Ministry of Finance, Department of Internal State Control/Harmonization, *Monitoring Report on Implementation of Internal State Financial Control System Development Strategy's 2017-2018 Action Plan as of December 2018*, December 2018, p. 4.

381 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, p. 46, <http://bit.ly/2NnA0hw>

382 State Procurement Agency, *Report on State Procurement Agency's Activities in 2018*, 2019, pp. 25-26, (in Georgian), <http://bit.ly/30pq9wR>

INTEGRITY (LAW)

Score: 75

To what extent are there provisions in place to ensure the integrity of public sector employees?

Georgia has a robust legal framework on public sector integrity, although there are notable gaps in the provisions on post-employment restrictions.

Georgia has multiple legal provisions on the integrity of public sector employees. These are set out in the Law on Conflict of Interest and Corruption in Public Institution³⁸³ and the government decree On Establishing General Rules of Ethics and Conduct in Public Institutions.³⁸⁴

Civil servants are required to perform their duties in an impartial and honest manner and must refrain from misusing official funds or using official authority for personal purposes. They are prohibited from accepting gifts or services that could influence the exercise of their duties and must inform their supervisors of any such offers. They are required to prevent any instances of conflict of interest and to declare such instances whenever they occur. They are also required to file a notice if they have relatives who work in the same institution. Civil servants cannot, in their official capacity, enter commercial deals with their family members or close relatives, as well as the institutions where they work, commercial entities or political parties. When a civil servant holds shares in a commercial enterprise, they are required to hand them over to another person for temporary management for the duration of public employment. The law establishes a ceiling value of gifts that a civil servant is allowed to accept in a single year and a maximum allowed value of a single gift. A similar restriction is in place for the family members of civil servants.³⁸⁵

Civil servants are prohibited to perform any parallel paid work or engage in business. A public official's close relative cannot be appointed to a position directly subordinated to this official, unless the appointment is made through an open contest.³⁸⁶ Bribery of or by public servants is a criminal offence under Georgian law.³⁸⁷

On the negative side, post-employment restrictions are weak. Although the law prohibits civil servants (for a period of one year after leaving civil service) from joining the enterprises whose activities they oversaw during the previous three years, it does not contain definitions of the relevant terms, making enforcement difficult. Gaps in the provisions on gifts (notably those concerning gifts from family members) could also result in abuses in practice.³⁸⁸

The Law On Public Procurement contains provisions on the prevention of conflict of interest, although there is no requirement for the inclusion of anti-corruption clauses in procurement contracts.³⁸⁹

383 Law on Conflict of Interest and Corruption in Public Institution, adopted on 17 October 1997.

384 Government Decree #200 On Establishing General Rules of Ethics and Conduct in Public Institutions, adopted on 20 April 2017.

385 Law on Conflict of Interest and Corruption in Public Institution, Articles 5, 7-11, 13, 13(1)-13(6).

386 Ibid., Article 13.

387 Criminal Code, Articles 338-339.

388 Transparency International Georgia, *Gifts Received by Public Officials Need to be Studied Further*, 7 March 2018, <http://bit.ly/3adRYNe>

389 Law on Public Procurement, Article 8.

INTEGRITY (PRACTICE)

Score: 25

To what extent is the integrity of civil servants ensured in practice?

Although bribery levels in Georgia's public sector are very low, the overall enforcement of integrity rules is weak.

Bribery among civil servants is extremely rare in Georgia. In a 2019 survey, only 1% of the respondents reported that they or their family members had been asked to pay a bribe for a public service. However, in the same survey, 59% said that it is common for public officials to abuse their position for a variety of purposes, such as securing employment for their family members, protecting their private business or mispending public funds.³⁹⁰

There are significant problems in terms of the application of integrity rules in practice. The OECD ACN concluded in 2016 that practical enforcement of the relevant provisions was "almost non-existent" and that there was "no clear allocation of integrity tasks on the central level and inside ministries and state bodies."³⁹¹ In order to address this problem, the organization advised the Georgian Government to clarify the roles of different institutions in terms of the enforcement of integrity rules, to strengthen the capacity of internal audit units and to consider designating special officers in public bodies responsible for enforcement. However, Georgia remained noncompliant with this recommendation as of March 2019.³⁹²

Responding effectively to the alleged cases of nepotism remains a challenge.³⁹³ In a 2019 survey, 59 percent of the respondents said that officials abuse their position and 91 percent of those who shared this view said that they do so in order to secure employment for their family members and relatives.³⁹⁴ Recent cases in which companies linked with public officials have won public tenders under suspicious circumstances also point to possible corruption in public procurement.³⁹⁵

390 Transparency International Georgia, *Corruption Remains Significant Challenge in Georgia*, 15 April 2019, <http://bit.ly/2QUGLcL>

391 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the*

Istanbul Anti-Corruption Action Plan, 15 September 2016, p. 36, <http://bit.ly/30krxRv>

392 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, p. 46, <http://bit.ly/2NnA0hw>

393 Transparency International Georgia, *Family Members of Public Officials in Public Service*, 17 October 2019, <http://bit.ly/2FQhPNx>

394 Transparency International Georgia, *Corruption Remains Significant Challenge in Georgia*, 15 April 2019, <http://bit.ly/2QUGLcL>

395 Transparency International Georgia, *The Family Company of a Member of Batumi City Assembly Wins Tenders of Batumi City Hall Without Competition*, 27 November 2019, <http://bit.ly/2TtKBLj>; Transparency International Georgia, *Since the nomination of Ioseb Makrakhidze as the majoritarian MP candidate for Gori, companies connected with him have received more than GEL 91.8 million from tenders*, 9 September, 2019, <http://bit.ly/36RE810>

ROLE: PUBLIC EDUCATION (PRACTICE)

Score: 25

To what extent does the public sector inform and educate the public on its role in fighting corruption?

The public sector has not actively informed and educated the general public on corruption and anti-corruption measures.

Georgia's National Anti-Corruption strategy identifies education and public awareness raising on corruption as one of its main priorities. According to the strategy, the government is to conduct information campaigns and educational meetings on corruption along with adopting a relevant public relations strategy.³⁹⁶

However, the government has generally failed to follow up with appropriate activities in practice. The OECD ACN noted in 2016 that the relevant activities had been "limited" and advised the government to "speed up" the development of the public relations strategy and to "continue and expand" educational activities, focusing on "systemic, high-level and complex corruption issues."³⁹⁷ According to the organization's 2019 progress update, educational activities had only been conducted on a "very small scale."³⁹⁸ The Anti-Corruption Council (the institution responsible for coordinating these activities) does not currently have a website.

On the positive side, a series of training sessions and meetings on changes in the Civil Service Law and anti-corruption mechanisms which the Civil Service Bureau conducted in 2018 involved, along with civil servants, representatives of civil society organizations and the media.³⁹⁹

ROLE: COOPERATE WITH PUBLIC AGENCIES, CSOS AND THE PRIVATE SECTOR IN PREVENTING/ADDRESSING CORRUPTION (PRACTICE)

Score: 50

To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

The public sector is collaborating with CSOs on anti-corruption measures through a number of channels, while the work with the private sector is more limited.

The Anti-Corruption Council which is established under the Ministry of Justice is the primary venue for the collaboration between public agencies, CSOs and the private sector on anti-corruption policies. Along with all key public institutions, the Council also includes representatives of Georgia's leading CSOs and business associations.⁴⁰⁰ The Council collaborated with

396 Georgian National Anti-Corruption Strategy, <http://justice.gov.ge/Ministry/Index/174> (accessed on 14 June 2019).

397 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the*

Istanbul Anti-Corruption Action Plan, 15 September 2016, p. 24, <http://bit.ly/30krxRv>

398 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, p. 17, <http://bit.ly/2NnA0hw>

399 Civil Service Bureau, *2018 Report*, p. 20, (in Georgian), <http://www.csb.gov.ge/media/2438/964872018.pdf>

400 Georgian Government Decree N390 On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption, adopted on 30 December 2013.

CSOs during the drafting of the National Anti-Corruption Strategy and Action Plan.⁴⁰¹ On the other hand, CSOs highlighted the Justice Ministry's uncooperative approach to the drafting of the country's Open Government Partnership Action Plan in 2018.⁴⁰²

In an important positive development, the Civil Service Bureau has set up an independent commission which is made up of CSO representatives and is responsible for selecting asset declarations for verification at the beginning of every year (in addition to the declarations selected randomly by an electronic system). The commission met for the first time in January 2019 and selected 302 declarations for review.⁴⁰³

On the negative side, the authorities have largely failed to get the private sector actively engaged in corruption prevention measures (despite the inclusion of business representatives in the Anti-Corruption Council). The OECD ACN noted a number of shortcomings in this area in 2016 and adopted a number of recommendations for eliminating them, but the government had made "limited" progress in terms of their implementation by March 2019.⁴⁰⁴

ROLE: REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT (LAW AND PRACTICE)

Score: 50

To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?

Georgia has established a highly transparent electronic system of public procurement. The volume of non-competitive procurement has decreased in recent years but remains high overall. An effective mechanism is in place for the adjudication of procurement-related disputes but conflict of interest rules are not comprehensive, while companies and individuals convicted for corruption are not prohibited from participating in procurement.

Georgia's legal framework for public procurement is extensive and contains a number of detailed provisions designed to ensure objectivity of the process and reduce the risk of corruption. The rules for state procurement are set out in the Law on State Procurement and a number of by-laws.

Procurement is handled by individual public bodies under general supervision from the State Procurement Agency (SPA). The SPA is responsible for the coordination and monitoring of procurement-related activities. The agency is accountable to the executive branch and its chairperson is appointed by the Prime Minister. The SPA is required to continuously examine

401 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the*

Istanbul Anti-Corruption Action Plan, 15 September 2016, p. 23, <http://bit.ly/30krxRv>

402 NGO Members of the Open Government Partnership Georgia Forum, *Address of the Open Government Georgia's Forum Member NGOs to the Prime-Minister of Georgia*, 13 July 2018, <http://bit.ly/2QVukgY>

403 Civil Service Bureau, Minutes of the meeting of the independent commission established for the selection of the asset declarations of public officials to be reviewed in 2019, <http://csb.gov.ge/uploads/File.PDF> (accessed on 1 July 2019).

404 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, 15 September 2016, p. 90, <http://bit.ly/30krxRv>; OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update Report (on Georgia)*, March 2019, p. 113, <http://bit.ly/2NnA0hw>

and analyse the situation in the field of public procurement on the basis of reports supplied by procuring organizations and present relevant recommendations to the government, while ensuring that the procurement procedures are carried out according to the law.⁴⁰⁵

According to the OECD ACN, the SPA “maintains one of the highest levels of transparency and openness of the public procurement in the world through the use of total e-procurement platform,” although exceptions in the procurement law make it possible to conclude contracts outside the electronic platform or through non-competitive processes.⁴⁰⁶

The law establishes open and competitive bidding as the default method of public procurement. All stages of the process from tender announcement to contract conclusion are to be conducted through a centralized online system and the relevant information is therefore open to public scrutiny.⁴⁰⁷

The provisions in the law which allow for exceptions from competitive bidding and allow for direct contracting (through the “simplified procurement” procedure) are problematic. As a result of some unreasonable exceptions⁴⁰⁸ made possible by the law, the share of non-competitive contracts in the overall annual volume of procurement has remained high, amounting to 19% of the total value of public procurement contracts in 2018⁴⁰⁹ (although decreasing significantly from 37% in 2016).⁴¹⁰

As noted in the section on the public administration’s accountability in practice above, the SPA’s Dispute Resolution Council is a mechanism for addressing complaints regarding the public procurement process.

The Criminal Code establishes sanctions for corruption-related violations in public procurement.⁴¹¹ The Law on Public Procurement contains provisions on the prevention of conflict of interest in the procurement process,⁴¹² although they appear to the public authorities only and do not deal with possible conflict of interest among the potential suppliers.⁴¹³ The law does not prohibit companies and individuals convicted for corruption from participating in public procurement and, consequently, companies linked with individuals involved in corruption and fraud (including a company co-owned by a ruling party MP) have continued to win large public contracts.⁴¹⁴

405 Law on State Procurement, Article 4.

406 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, 15 September 2016, p. 79, <http://bit.ly/30krxRv>

407 Law on State Procurement, Chapter III.

408 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, 15 September 2016, pp. 79-80, <http://bit.ly/30krxRv>

409 State Procurement Agency, *Report on State Procurement Agency’s Activities in 2018, 2019*, p. 5, (in Georgian), <http://bit.ly/30pq9wR>

410 Transparency International Georgia, *How the State Spends Our Money: Public Procurement in Georgia (2015-2017)*, December 2017, p. 4, <https://www.transparency.ge/en/post/how-state-spends-our-money>

411 Criminal Code, Chapter XXVI, Article 195¹.

412 Law on Public Procurement, Article 8.

413 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, 15 September 2016, p. 85, <http://bit.ly/30krxRv>

414 Transparency International Georgia, *Persons Convicted of Corruption and Fraud should be Restricted from Participating in Public Procurement*, 19 November 2018, <http://bit.ly/2R5Pc3O>

LAW ENFORCEMENT AGENCIES

Law enforcement agencies receive adequate funding and cope effectively with low-level corruption in the public administration. At the same time, they fail to effectively respond to cases of corruption that involve high-ranking officials or other influential individuals, which is mainly caused by these agencies' insufficient independence from the ruling party and by the informal influence of the leader of the ruling party on them. The degree of accountability of the law enforcement agencies and of the transparency of their activities is also low.

Law Enforcement Agencies Final score: 54.1			
Dimension	Indicator	Law	Practice
Capacity: 66.6	Resources		100
	Independence	75	25
Governance: 45.8	Transparency	50	25
	Accountability	75	25
	Integrity	75	25
Role: 50	Corruption prosecution	50	
Law and practice average scores		65	41.6

STRUCTURE AND ORGANISATION

The Ministry of Internal Affairs, the State Security Service, and the Prosecutor's Office of Georgia are Georgia's main law enforcement agencies. The main legal provisions regulating the operation of these three agencies are included in the following laws: the Law on Police, the Law on State Security Service, and the Law on Prosecutor's Office.

The Ministry of Internal Affairs (MIA) exercises police functions, such as ensuring public safety and law and order, as well as detection, prevention, investigation of crime and other types of offences. The competences of the Ministry of Internal Affairs also include protection of the state border. One of the objectives of the ministry is the protection of human rights and freedoms.⁴¹⁵ The Ministry is composed of structural subunits, territorial agencies, subordinate state agencies, and legal entities of public law under its system. The organizational and structural issues of the police are determined by the Statute of the Ministry of Internal Affairs.⁴¹⁶ For example, the Central Criminal Police Department, the Special Tasks Department, and the Patrol Police Department are structural subunits of the Ministry which exercise police functions within the limits determined by law.⁴¹⁷

⁴¹⁵ Government Decree N337 of 13 December 2013 on the Approval of the Statute of the Ministry of Internal Affairs.

⁴¹⁶ The Law on Georgian Government's Structure, Powers, and Operation Rules, Article 17, Paragraph 1.

⁴¹⁷ Government Decree N337 of 13 December 2013 on the Approval of the Statute of the Ministry of Internal Affairs.

The Prosecutor's Office of Georgia is an independent agency composed of a unified, centralized system. Its roles include criminal prosecution, procedural administration of investigation, and, within the limits of its mandate, criminal investigation. In addition, it supervises the part of the operative and investigative activities which, according to the Law of Georgia on Operative Investigative Activities, is subject to prosecutorial supervision. In court, the Prosecutor's Office acts as a public prosecutor. The system of the Prosecutor's Office of Georgia is made up of the Office of the Prosecutor General, the Prosecutor's Offices of the Autonomous Republics of Abkhazia and Adjara, the Prosecutor's Office of the City of Tbilisi, Regional Prosecutors' offices, District Prosecutor's Offices and, where provided for by law, Specialized Prosecutors' Offices. The Prosecutor's Office of Georgia is headed by the Prosecutor General. The Prosecutor General conducts criminal prosecutions, in accordance with procedures established by law, where a crime has been committed by the President of Georgia, the Prime Minister of Georgia, the Head of the State Security Service of Georgia, the Chairperson of the Parliament of Georgia, and other persons determined by law. The Prosecutor General is elected by the Parliament of Georgia, while candidates are nominated by the Prosecutorial Council. Following recent reforms, two new bodies have been established in the Prosecutor's Office – the Prosecutorial Council, which is responsible for ensuring the independence, transparency, and effectiveness of the Prosecutor's Office, and the Conference of Prosecutors -- an assembly of prosecutors and investigators of the Prosecutor's Office which elects the members of the Prosecutorial Council.⁴¹⁸

The State Security Service's responsibilities include combating terrorism, corruption, and transnational organized crime, protection of Georgia's constitutional order, sovereignty, and military potential from the illegal actions by foreign special services and individuals, and so on.⁴¹⁹

RESOURCES (PRACTICE)

Score: 100

To what extent do law enforcement agencies have adequate financial and human resources and infrastructure to operate effectively in practice?

The amount of funding allocated to the law enforcement agencies from the state budget has increased in recent years.

According to the budget for 2019, the funding of the Prosecutor's Office of Georgia amounts to GEL 37 million, while the agency has 860 employees. The funding of the Ministry of Internal Affairs amounts to GEL 766,600 million, and the agency currently employs 29,418 people.⁴²⁰

In 2015, after the reform of the Ministry of Internal Affairs, the State Security Service was formed as a separate, independent agency. According to the budget of 2019, the Service employs 3,850 people, while its funding amounts to GEL 136 million.⁴²¹

The funding of law enforcement agencies has not decreased in recent years and there has been a trend of growth. According to the state budget of 2019, in comparison with last year, the funding of the Prosecutor's Office increased by about GEL 1 million, that of the State Security Service – by GEL 9 million, and that of the Ministry of Internal Affairs – by GEL 90 million.⁴²²

418 Organic Law on the Prosecutor's Office.

419 Law on State Security Service, Article 5.

420 Ministry of Finance, *2019 State Budget of Georgia*, <https://mof.ge/5187>

421 Ibid.

422 Ibid.

INDEPENDENCE (LAW)

Score: 75

To what extent are law enforcement agencies independent by law?

The legal framework contains important provisions designed to ensure the independence of the law enforcement agencies. However, some of its flaws create opportunities for undue external influence over these institutions.

The Law on State Security Service determines the procedures of appointment and the powers of the head of the agency. It also establishes the criteria for recruitment and the guiding principles of the agency's activity. One of the main guiding principles of the activity of the State Security Service is non-discrimination and political neutrality.⁴²³ The same law regulates the minimum required age, criteria, and procedure for the appointment as the Head of the agency, which encompasses several stages.⁴²⁴ The Head of the State Security Service is elected by the Parliament for a period of six years, upon nomination by the Government of Georgia.⁴²⁵

The current procedure for the appointment of the head of the State Security Service fails to ensure the agency's institutional independence in a situation where the Prime Minister, the Government, and the parliamentary majority represent the same political force. The procedure of appointment of the head of the agency rules out the participation of other political groups except for the parliamentary majority. The possibility of unilateral nomination of the candidate by the Prime Minister creates the basis for partisan selection of the candidate.⁴²⁶

The Law on Police contains provisions regulating the recruitment, promotion, and dismissal of police officers. According to the law, police officers are politically neutral and may not use their official status in favour of the partisan interests of any political entity.⁴²⁷ Police officers are civil servants.⁴²⁸ They are prohibited from combining their work with employment in another government agency or a commercial entity (except for scientific, academic or creative work).⁴²⁹ Interference with a police officer's work is prohibited; at the same time, police officers can apply to courts to seek protection of their interests.⁴³⁰ The law also lists legitimate grounds for the dismissal of police officers.⁴³¹

The procedures of recruitment, promotion, and dismissal of police officers are listed in the relevant regulation of the Minister of Internal Affairs.⁴³² According to a study by the Human Rights Education and Monitoring Center (EMC), the provisions on the recruitment policy of the Ministry of Internal Affairs and those on the transparency and objectivity of the system contain contradictions. The Minister, as a political figure, enjoys extraordinary powers in matters of recruitment. The norms do not determine the minimum material and procedural frameworks which are supposed to protect this process from political influence.⁴³³ According

423 Law on State Security Service, Article 4.

424 Ibid., Article 7.

425 Ibid.

426 Transparency International Georgia, *Reform of the Security Service in Georgia*, 18 June, 2018, <http://bit.ly/3a8Dmie>

427 Law on Police, Article 14.

428 Ibid., Article 4.

429 Ibid., Article 36.

430 Ibid, Article 48.

431 Ibid, Articles 41-42.

432 Order N995 of 31 December 2013 of the Minister of Internal Affairs on Approving the Rule of Service at the Ministry of Internal Affairs.

433 Human Rights Education and Monitoring Center (EMC), *Protecting Political Neutrality in Police Activities - Newsletter #2*, <http://bit.ly/384towk>

to the same study, the criteria and the procedures of promotion, as well as demotion and dismissal, of police officers are problematic and vague, which creates the danger that unfair practices will arise.⁴³⁴

The independence of the activities of the Prosecutor's Office of Georgia is safeguarded by the Constitution of Georgia and the Law on Prosecutor's Office. The Prosecutor's Office is headed by the Prosecutor General who is elected by the Parliament of Georgia for a period of six years based on nomination of the Prosecutorial Council. The independence, transparency, and effectiveness of the Prosecutor's Office are to be ensured by the Prosecutorial Council, which comprises 15 members and is elected for a period of two years. The competences, structure, and activities of the Prosecutor's Office are determined by the organic law.⁴³⁵

The Prosecutor's Office is led by the Prosecutor General. The Law on Prosecutor's Office lists the mandatory criteria which candidates for the position of the Prosecutor General must meet. For example, a candidate must not have a criminal record, must have higher education in law, must be a citizen of Georgia, etc.⁴³⁶ According to civil society organizations, the procedure for the election of the Prosecutor General is still vague. The Parliament didn't accept the proposal of civil society organizations to select the Prosecutor General through an open competition.⁴³⁷

The Prosecutor General enjoys quite extensive powers. For example, he/she is authorized to make decisions on staff-related matters of the Prosecutor's Office, establish and dissolve bodies of the Prosecutor's Office, attend meetings of the Prosecutorial Council with the right of a deliberative vote, and approve guiding principles taking into account criminal policy, although the authority to define criminal policy has been given to the Parliament of Georgia. The competences of the Prosecutor General also include the approval of the Code of Ethics of the employees of the Prosecutor's Office and the review of applications and complaints.⁴³⁸ It should be noted that both civil society organizations and the Venice Commission have assessed negatively the granting of a broad discretion in decision-making to the Prosecutor General.⁴³⁹

The Law on the Prosecutor's Office contains a number of provisions ensuring the institutional independence of the Prosecutor's Office at the legislative level. For example, the law prohibits ordering an employee of the Prosecutor's Office to carry out any tasks that are not stipulated in the Constitution of Georgia, the law, or any other legislative act. In addition, the main principles of the activity of the Prosecutor's Office include objectivity and political neutrality.⁴⁴⁰ Employees of the Prosecutor's Office are prohibited from joining a political party and engaging in commercial activities (except for scientific, academic, or creative work).⁴⁴¹ Hindering an employee of the Prosecutor's Office from performing their official duties or any type of pressure or violence against them and/or their family are punishable offences, and the state protects them. An employee of the Prosecutor's Office is independent in their official activities, and it is prohibited to dismiss them from the position held except in cases determined by law.⁴⁴²

434 Ibid.

435 Constitution of Georgia, Article 65.

436 Organic Law on the Prosecutor's Office, Articles 16-17.

437 Transparency International Georgia, *The Coalition for an Independent and Transparent Judiciary Assesses the Prosecution Reform Results*, 7 December 2018, <http://bit.ly/2Nu4gr3>

438 Organic Law on the Prosecutor's Office, Article 15.

439 Institute for Development of Freedom of Information, *Prosecutorial Reform – Review of System Changes at Onset of 2019*, 4 February 2019, <http://bit.ly/36WHlwq>

440 Organic Law on the Prosecutor's Office, Articles 4-5.

441 Ibid., Article 45.

442 Ibid., Article 74.

One more novelty in the institutional model of the Prosecutor's Office is the Prosecutorial Council, which was created with the aim of ensuring the independence of the Prosecutor's Office. The Prosecutorial Council consists of 15 members, eight of whom are elected by the Conference of Prosecutors. The law also determines the rule and the procedures of appointments to the Council.⁴⁴³ The main role of the Prosecutorial Council is to approve a candidate for the position of the Prosecutor General and to conduct disciplinary proceedings against the First Deputy Prosecutor General and Deputies Prosecutor General, as well as to hear a report, once in every six month - or, by a decision of the majority of members of the Council, immediately - of the Prosecutor General, the First Deputy Prosecutor General, or a Deputy Prosecutor General on the activities of the Prosecutor's Office.⁴⁴⁴

In the context of ensuring institutional independence, the functions of the Prosecutorial Council are weak. International organizations, representatives of civil society organizations, and the Public Defender's Office have assessed negatively the limited role assigned to the Council. In the opinion of the Public Defender and the Venice Commission, under the current legislation, the Council will find it difficult to exercise the role it has been assigned (ensuring the effectiveness, transparency, and independence of the Prosecutor's Office). The Council plays a minimal role in the operation of the Prosecutor's Office.⁴⁴⁵

According to the assessment of the Venice Commission, the current legal framework and composition of the Council fail to sufficiently increase the public's trust in the independence of the Prosecutor's Office, while the current model of the Council's operation fail to ensure the agency's independence. In the opinion of the Commission, the Career Management, Ethics and Incentives Council should be subordinated to the Prosecutorial Council instead of the Prosecutor General. In addition, the Commission believes that the role of the Prosecutorial Council should be enhanced in connection with the career management of prosecutors and that this function should be shared between the Council and the Prosecutor General.⁴⁴⁶

According to GRECO, the General Prosecutor's excessively wide powers in terms of the recruitment and promotion of prosecutors, as well as insufficient transparency of these procedures, are a problem.⁴⁴⁷

INDEPENDENCE (PRACTICE)

Score: 25

To what extent are law enforcement agencies independent in practice?

The undue influence of the ruling party and personally of its leader over the law enforcement agencies has negatively affected their independence in practice.

Appointment of individuals with links to ruling party leader Bidzina Ivanishvili as heads of law enforcement agencies has become a trend in recent years. Shalva Tadumadze, former lawyer of the Ivanishvili family, was appointed general prosecutor in 2018.⁴⁴⁸ Vakhtang Gomelauri,

443 Ibid., Article 19.

444 Ibid.

445 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2018*, p. 69, <http://bit.ly/2Tqlolu>

446 Institute for Development of Freedom of Information, *Venice Commission Published its Opinion on New Provision on Prosecutorial Council*, 19 December 2018, <http://bit.ly/38f2qT7>

447 Group of States Against Corruption (GRECO), *Fourth Evaluation Round, Compliance Report, Georgia*, Strasbourg, 18-22 March 2019, p 12.

448 Tabula, *Tadumadze: There are two billionaires in the country and I have served both of their families with my diploma*, 16 July 2018, (in Georgian), <http://bit.ly/2NsBneW>

Ivanishvili's former personal chief of security, served as the head of the State Security Service from 2015 and was appointed internal affairs minister 2019.⁴⁴⁹ In the State Security Service, he was succeeded by Grigol Liluashvili who previously held various high-level positions in companies connected with Bidzina Ivanishvili.⁴⁵⁰

Multiple recent cases have reinforced the suspicion that the law enforcement agencies are operating under the ruling party's influence and are acting under its orders against the people critical toward the authorities. The following cases are worth mentioning:

- The prosecution of Mamuka Khazaradze and Badri Japaridze, former members of the TBC Bank Supervisory Board.⁴⁵¹
- The prosecution of Victorious Georgia party leader Irakli Okruashvili.⁴⁵²
- The prosecution of Parliament member Nika Melia.⁴⁵³
- The prosecution of Mtavari TV station director Nika Gvaramia.⁴⁵⁴
- The prosecution of businessman Avtandil Tsereteli whose family owns the Pirveli TV station.⁴⁵⁵
- The use of disproportionate police force against the participants of anti-government protest rallies.⁴⁵⁶

According to a 2018 public opinion survey, a majority of the citizens believe that the law enforcement agencies serve the ruling party's interests.⁴⁵⁷

TRANSPARENCY (LAW)

Score: 50

To what extent are there provisions in place to ensure that the public can access the relevant information on the activities of law enforcement agencies?

The general legislative provisions on public information also extend to the law enforcement agencies, although the special legislation regulating the transparency of individual aspects of their activities is not sufficiently detailed.

The obligation to release the types of information provided for by the General Administrative Code and the Decree on Requesting Public Information in Electronic Form and Publishing It

449 Ministry of Internal Affairs, Biography of Minister Vakhtang Gomelauri, <http://bit.ly/2RgO7Xf>

450 Transparency International Georgia, *Ivanishvili's Companies – Public Officials' Talent Pool Three Years Later*, 8 October 2018, <http://bit.ly/2sr9Fb7>

451 Transparency International Georgia, *Charges Against the Founders of TBC Bank Raise Many Questions About the Investigation*, 25 July 2019, <http://bit.ly/2QVM8Zm>

452 Transparency International Georgia, *Signs of Political Persecution in Irakli Okruashvili's Detainment*, 26 July 2019, <http://bit.ly/38czBGT>

453 Transparency International Georgia, *The State Still Has a Selective Approach in the Investigation of the June 20 Events*, 18 October 2019, <http://bit.ly/2Tq2xHj>

454 Transparency International Georgia, *Statement of NGOs on the Charges Made Against former Director-General of Rustavi 2, Nika Gvaramia*, 9 August 2019, <http://bit.ly/3aeaxRq>

455 Transparency International Georgia, *Prosecution of TV Pirveli Owner's Family Member Reinforces Questions Concerning Freedom of Speech and Selective Justice in the Country*, 22 August 2019, <http://bit.ly/30nbHFP>

456 Human Rights Education and Monitoring Center (EMC), *EMC Believes the State Used Disproportionate Force on November 26*, 28 November 2019, (in Georgian), <http://bit.ly/2QSWRUl>; Human Rights Education and Monitoring Center (EMC), *Statement of Non-Governmental Organizations on the 20 June Events*, 21 June 2019, (in Georgian), <http://bit.ly/2FPiOsf>

457 Transparency International Georgia, *Public Opinion Survey: Corruption, Trust in Institutions and Issues Of Public Policy*, 11 May 2018, <http://bit.ly/2NsXmCl>

Proactively also extends to the law enforcement agencies, with the procedures and time frames provided for by the same law and decree. Individuals employed in the law enforcement agencies who come under the scope of the Law on Public Service are obliged to fill out asset declarations.⁴⁵⁸

It should also be noted that the laws regulating the activities of the law enforcement agencies do not contain specific and detailed norms on the release of information and allow officials of the agencies to make decisions on this issue. The General Administrative Code (which regulates freedom of information) does not apply to the activities of the executive branch bodies concerning criminal prosecution and criminal procedure as well as operative and investigative work.⁴⁵⁹ The Law on Police contains a general stipulation that the police are obliged to provide public information about their activity to state bodies, civic organizations, and interested persons, as determined by the legislation of Georgia.⁴⁶⁰

The only thing which the law On Prosecutor's Office establishes in terms of transparency is that the Prosecutor's Office is to use its website and social networks as the official means for proactive publication of information.⁴⁶¹ The Code of Criminal Procedure requires a prosecutor and an investigator not to publicize investigation materials.⁴⁶² However, if an individual is declared an injured party, they are entitled to receive information about how the investigation is proceeding and to view the criminal case materials if this does not contradict the interests of the investigation.⁴⁶³ According to the law On Operative and Investigative Activities, such activities are strictly classified and it is prohibited to publicize materials concerning them.⁴⁶⁴ Under the same law, based on a substantiated decision, a prosecutor can declassify documents and materials concerning operative and investigative activities in order to use them as evidence in a criminal case.⁴⁶⁵

TRANSPARENCY (PRACTICE)

Score: 25

To what extent is there transparency in the activities and decision-making of law enforcement agencies in practice?

There are two methods of receiving information about the activities of the law enforcement agencies: requesting public information and the agencies' posting the information on their activities, procurements, recruitment, salaries, and administrative expenses on their websites.

The provision of public information is uneven across the law enforcement agencies. According to a 2018 study, the rate of provision of public information was 72 percent in the Internal Affairs Ministry, 63 percent in the State Security Service, and 28 percent in the Prosecutor's Office.⁴⁶⁶

458 Law on Conflict of Interest and Corruption in Public Service, Article 14.

459 The General Administrative Code of Georgia, Article 4.

460 Law on Police, Article 15.

461 Organic Law on the Prosecutor's Office, Article 55

462 Criminal Procedure Code, Article 104.

463 Criminal Procedure Code, Article 57

464 Law on Operative-Investigative Activities, Articles 5, 21

465 Ibid., Article 5

466 Institute for Development of Freedom of Information, *IDFI Presented its Report on Access to Public Information in Georgia*, 3 May 2019, <http://bit.ly/2Nx3Dgy>

In terms of proactive publication of information, the Ministry of Internal Affairs is the best performer among the three law enforcement agencies. The websites of the Prosecutor's Office and the State Security Service contain scarce information on the activities of these agencies.

The public information section of the website of the Ministry of Internal Affairs contains information on the recruitment, funding, procurement, registered crimes, and various areas of the Ministry's activity. According to IDFI, when releasing financial information, the Ministry releases the information that meets the requirements established by the government's decree, also releasing important statistical data on its activities beyond those required by the decree.⁴⁶⁷ According to the IDFI, since 2018, the Ministry has ensured the availability of detailed data on crime situation on a monthly basis.⁴⁶⁸

The State Security Service has its own website, but it contains scarce information on the activities of the Service – including the annual reports summarizing the areas of the agency's activities, as well as the list of the Head and Deputy Heads of the Service.⁴⁶⁹

The website of the Prosecutor's Office of Georgia includes a section of public information, but most of its sub-sections are empty and do not contain the relevant information.⁴⁷⁰

The problem with the provision of information is also highlighted by the EMC's request of information on an ongoing reorganization of the Prosecutor's Office of Georgia.⁴⁷¹ The Prosecutor's Office also ignored the request of IDFI to disclose information about the reorganization.⁴⁷² In addition, the Prosecutor's Office refused to disclose information about the investigation of several high-profile cases, as well as information regarding the higher education of the Chief Prosecutor.^{473 474}

According to the Public Defender's report, the Public Defender's Office is unable to obtain detailed information about investigative and procedural actions, which makes it impossible to exercise effective oversight over the protection of human rights and, naturally, has a negative impact on the degree of transparency of the Prosecutor's Office.⁴⁷⁵

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?

467 Institute for Development of Freedom of Information, *Proactive Disclosure of Public Information on Georgian Public Institution Websites*, June 2019, p. 11, (in Georgian), <http://bit.ly/38r4KGr>

468 Institute for Development of Freedom of Information, *Worsened Criminal Situation or Hidden Statistics?*, 29 August 2018, (in Georgian), <http://bit.ly/2FUUXfS>

469 State Security Service website - <https://ssg.gov.ge/>

470 Chief Prosecutor's Office website - <http://pog.gov.ge/public-info>

471 Human Rights Education and Monitoring Center (EMC), *The Prosecutor's Office Refuses to Disclose Information about the Ongoing Reorganization*, 5 November 2018, (in Georgian), <http://bit.ly/2svyV03>

472 Institute for Development of Freedom of Information, *Access to Public Information in Georgia 2018*, June 2019, p. 12, <http://bit.ly/3734sFB>

473 Transparency International Georgia, *Information on Investigation of High-profile Cases Remains Closed*, 26 September 2017, <http://bit.ly/30qSzGV>

474 Netgazeti, *Transparency International Georgia is Appealing to Court to Obtain Tadumadze's Diploma*, 31 January 2019, (in Georgian), <https://netgazeti.ge/news/337466/>

475 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2018*, p. 22, <http://bit.ly/2Tqolou>

The current legal framework contains important provisions to ensure the accountability of law enforcement agencies, although there are deficiencies in terms of parliamentary control of the security sector and investigation of crimes committed by the employees of law enforcement agencies.

The current legislation contains both external and internal mechanisms of accountability of law enforcement agencies. According to the Law on State Security Service, the Head of the State Security Service is accountable to the Government and the Parliament of Georgia, and once a year, the Head or Deputy Head of the agency are required to submit an activity report to the Parliament of Georgia.⁴⁷⁶ In accordance with the Rules of Procedure of the Parliament of Georgia, the Ministry of Internal Affairs, the State Security Service of Georgia, and the legal entity of public law – Operative-Technical Agency of Georgia are supervised by the Group of Trust set up at the Defence and Security Committee.⁴⁷⁷ The Group of Trust consists of five members.⁴⁷⁸ According to the Rules of Procedure of the Parliament, the Group of Trust is authorized to inspect the legal entity of public law – the Operative-Technical Agency up to twice a year, if such a decision is made. For such inspections, the Group of Trust selects its member(s) in the manner established by the Rules of Procedure.⁴⁷⁹

The Prosecutor General of Georgia, prosecutors subordinated to him/her, the State Audit Office, and the judiciary exercise various types of supervision over the State Security Service.⁴⁸⁰ Additionally, the State Security Service includes the General Inspectorate which is subordinated to the Head of the Service. The General Inspectorate identifies and appropriately responds to violations of disciplinary regulations and unlawful acts committed by the employees of the Service.⁴⁸¹

According to the Law on Police, state control on the activities of police officers and other employees of the Ministry of Internal Affairs is exercised on the basis of parliamentary, presidential, governmental, financial, and prosecutorial supervision as provided for by the legislation of Georgia.⁴⁸² According to the law, a person who believes that his/her rights and freedoms have been violated by an action of a police officer has the right to appeal against that decision to a superior official, the Prosecutor's Office, or the court.⁴⁸³ One of the main mechanisms of internal control of the Ministry of Internal Affairs is the General Inspectorate, which identifies and responds to violations of the norms of the Code of Police Ethics and the Disciplinary Statute of the Employees of the Ministry of Internal Affairs of Georgia, as well as other unlawful actions within the system of the Ministry, as determined by the legislation of Georgia. The General Inspectorate is directly accountable to the Minister of Internal Affairs.⁴⁸⁴ In 2015, the Internal Audit Department was created within the Ministry of Internal Affairs, which conducts compliance, financial, systemic, IT, and efficiency audits within the Ministry.⁴⁸⁵

According to the Law on Prosecutor's Office, the Prosecutor's Office of Georgia is accountable to the Parliament of Georgia. Parliamentary control over the activities of the Prosecutor's Office is carried out through the hearing of an annual activity report of the Prosecutor's Office. The Prosecutor General, the First Deputy Prosecutor General, or a Deputy Prosecutor General

476 Law on State Security Service, Article 9.

477 Rules of Procedure of the Parliament, Article 156.

478 Ibid., Article 157.

479 Ibid., Article 159.

480 Law on State Security Service, Articles 45-49.

481 Ibid., Article 50.

482 Law on Police, Article 58.

483 Ibid., Article 56.

484 Ibid., Article 57.

485 Order of the Minister of Internal Affairs N749 of 30 September 2015 on Approval of Regulations of the Internal Audit Department of the Ministry of Internal Affairs, Article 3.

have the right and may be required to attend Parliament, committee, or commission meetings, answer the questions raised at the meetings, and present a report on the activities performed. Control over the activities of the Prosecutor's Office is also exercised by the judiciary. Specifically, the performance of such investigative and procedural acts by the Prosecutor's Office which impose restrictions on human rights and freedoms guaranteed by the Constitution of Georgia is permitted by a decision of a court, in accordance with the procedure established by the legislation of Georgia. And the State Audit Office of Georgia exercises control over the use and spending of state funds and other tangible assets of the State allocated to the Prosecutor's Office.⁴⁸⁶

Employees of the Prosecutor's Office are held liable for committing a crime or administrative offence under the general rules. The Prosecutor General initiates a criminal prosecution against a prosecutor or investigator of the Prosecutor's Office, an advisor to the Prosecutor's Office, a witness, or a victim's coordinator.⁴⁸⁷

If an employee of the Prosecutor's Office violates official discipline, behaves inappropriately, or fails to perform or improperly performs his/her duties assigned under law, the General Inspectorate of the Office of the Prosecutor General carries out an official inspection, while the General Inspectorate is accountable directly to the Prosecutor General.⁴⁸⁸ Additionally, Individuals who consider that an operative-investigative measure conducted by the Prosecutor's Office has resulted in an unlawful restriction of their rights and freedoms may appeal against the lawfulness of such a measure to a higher state authority, prosecutor, or court.⁴⁸⁹

In the context of the accountability of the Prosecutor's Office, the Public Defender's report notes that the Organic Law of Georgia on the Prosecutor's Office determines various mechanisms of accountability of the Prosecutor's Office, including reports to be submitted to the Prosecutorial Council and the Parliament of Georgia. The possibility of submitting additional information concerning a particular criminal case is excluded in both cases. In the light of the above, it is impossible to ensure the accountability of the Prosecutor General of Georgia in connection with particular cases.⁴⁹⁰

In the opinion of the civil society sector, in spite of positive changes to the current Rules of Procedure of the Parliament, the current legislative framework and limited mandate and access to information of the oversight body do not create favourable conditions for guaranteeing an effective environment for exercising control over the defence and security sector.⁴⁹¹

One more important instrument for investigating the crimes committed by law enforcement officers is the creation of the State Inspector's Office, although civil society organizations believe that the current model of the State Inspector is problematic in several areas, which casts doubts on the effectiveness of the Inspector's activity. In particular, they believe it is necessary to broaden the mandate of the Office and the circle of offences to be investigated by the Office, as well as to broaden the competence of the Office, because criminal prosecution is still within the competence of the Prosecutor's Office, which considerably weakens the operational independence of the State Inspector's Office.⁴⁹²

486 Organic Law on the Prosecutor's Office, Articles 68-70.

487 Ibid., Article 76.

488 Ibid., Article 77.

489 Law on Operative Investigative Activities, Article 6.

490 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2018*, p. 70, <http://bit.ly/2Tqlolu>

491 Transparency International Georgia, *Draft Rules of Procedure does not Include Sufficient Mechanisms for Oversight over the Security Sector*, 5 October 2018, <http://bit.ly/371Cl4i>

492 Transparency International Georgia, *Parliament Postponed the Activation of the Investigative Authority of the State Inspector's Office for the Fourth Time*, 21 August 2019, <http://bit.ly/30rAJUi>

ACCOUNTABILITY (PRACTICE)

Score: 25

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

The accountability of the law enforcement agencies is not ensured properly in practice. There has been no effective response to multiple cases in recent years where the employees of these agencies allegedly committed crimes.

From the viewpoint of accountability, it should be noted that all the three law enforcement agencies submit annual activity reports to the Parliament. In addition, the General Inspectorate of the Ministry of Internal Affairs conducts internal inquiries into possible offences or infractions committed by law enforcement officers. According to the information on the website of the Ministry, in 2018, employees of the Ministry of Internal Affairs were subjected to disciplinary penalties in 1,714 cases as a result of inquiries conducted by the General Inspectorate. The penalty that was used most frequently (in 665 cases) was a reprimand, while the sanction used least frequently was demotion to a lower position.⁴⁹³

The report of the Chief Prosecutor's Office of Georgia says that in 2017 the General Inspectorate of the Chief Prosecutor's Office launched an official inspection against 115 employees in 68 cases.⁴⁹⁴

The website of the State Security Service does not contain the results of official inspections initiated by the General Inspectorate against employees of the Service. According to a special report of the Public Defender of 2017, citizens apply to the General Inspectorate of the State Security Service less frequently compared with other bodies.⁴⁹⁵

There are several important problems in the law enforcement agencies in terms of accountability: weak parliamentary control, the functional arrangement of the General Inspectorate, and the procedure of selection of the inspectorate's heads which could jeopardize their independence.⁴⁹⁶ In recent years, multiple cases which contained signs of possible offences committed by the representatives of the law enforcement agencies were left without effective response:

- Disproportionate use of police force during the dispersal of a protest rally on 20 June 2019, which resulted in injuries to both protesters and journalists.⁴⁹⁷
- The beating of poet Zviad Ratiani by police officers.⁴⁹⁸

493 Ministry of Internal Affairs, *Number of disciplinary penalties imposed on employees of the Ministry of Internal Affairs as a result of an official inspection carried out by the Ministry in 2018*, <http://bit.ly/37aTOfO>

494 Chief Prosecutor's Office, *2017 Report of the Chief Prosecutor of Georgia*, 6 February 2018, p. 54, (in Georgian), <http://bit.ly/2TsScKz>

495 Public Defender's Office, *Disciplinary proceedings (based on citizen complaints) against the employees of the Chief Prosecutor's Office, Ministry of Internal Affairs, Penitentiary and Probation Ministries and the State Security Service*, 2017, p. 11, (in Georgian), <http://www.ombudsman.ge/res/docs/2019041112142123160.pdf>

496 Interview with Sopho Verdzeuli, Human Rights and Monitoring Center (EMC), 24 June 2019.

497 Transparency International Georgia, *Statement of Non-Governmental Organizations on the 20 June Events*, 21 June 2019, <http://bit.ly/35ZPQpc>

498 Human Rights Education and Monitoring Center (EMC), *EMC responds to yesterday's statement by the Minister of Internal Affairs regarding the case of Zviad Ratiani*, 23 March 2019, (in Georgian), <http://bit.ly/2TAarhn>

- Multiple irregularities during the investigation of the so-called Khorava Street case.⁴⁹⁹
- Alleged fabrication of evidence in the so-called Birzha Mafia case.⁵⁰⁰
- Alleged kidnapping of Azerbaijani journalist Afghan Mukhtarli in Tbilisi and his subsequent handover to the Azerbaijani authorities.⁵⁰¹
- The assault on former General Auditor Lasha Tordia in which former Chief Prosecutor Otar Partskhaladze was involved.⁵⁰²
- Alleged excessive use of force during the 12 May 2018 police operation in the Basiani club.⁵⁰³

According to a study conducted by Georgian Democracy Initiative, the reports of local and international non-governmental organizations as well as the special or the annual reports of the Public Defender of Georgia drafted in 2014- 2017, while paying attention to the problem of a growing tendency of excessive use of force by the police, emphasize the failure to start the investigation, belated launch of investigation, investigation with wrong qualification in most cases by the biased agencies and the victim's insufficient involvement in the investigation process.⁵⁰⁴

With regard to the investigation of the offences committed by law enforcement officers, the Public Defender's report says that the percentage of cases where the perpetrators were identified and held accountable was low even when the Prosecutor's Office conducted the investigations independently. The main shortcoming revealed by the final assessment is that there was no thorough, effective, and timely investigation. In particular, perpetrators were not established in any of the 106 cases in 2012-2018 in which the Public Defender sent the Prosecutor's Office a proposal to launch an investigation.⁵⁰⁵

There are several key problems related to the existing model of the State Inspector's Office, including the election of the State Inspector. According to the civil society organizations, the competition was held with procedural violations, prompting suspicions that the candidate appointed to the Inspector's position had been selected in advance.⁵⁰⁶

499 Transparency International Georgia, *Mirza Subeliani's Case: Objective Justice or Pre-Determined Decision*, 12 March 2019, <http://bit.ly/38fDpan>

500 Public Defender's Office, *The Situation in Human Rights and Freedoms in Georgia 2017*, <http://bit.ly/2QYM9Mk>

501 Transparency International Georgia, *NGOs Respond to Forced Disappearance of Afgan Mukhtarli*, 1 June 2017, <http://bit.ly/30y1nuQ>

502 Transparency International Georgia, *Joint Statement of NGOs regarding Assault of Lasha Tordia, Auditor General of Georgia*, 15 May 2017, <http://bit.ly/2QXAJll>

503 Human Rights Education and Monitoring Center (EMC), *EMC Requests the Prosecutor's Office Launch an Investigation into the May 12 Events*, 12 June 2018, (in Georgian), <http://bit.ly/2Tw2No2>

504 Georgian Democracy Initiative, *The gaps of the investigation of the facts of ill-treatment conducted by the law enforcement officers and legal status of the victims in Georgia*, February 2017, p. 6, <http://bit.ly/3abTxv7>

505 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia 2018*, p. 72, <http://bit.ly/2Tqlolu>

506 Georgian Young Lawyers' Association, *The Coalition's Statement on Developments Related to the State Inspector*, 10 June 2019, <http://bit.ly/3aib7gW>

INTEGRITY (LAW)

Score: 75

To what extent is the integrity of law enforcement agencies ensured by law?

The Georgian legal framework contains strong provisions designed to ensure the integrity of the law enforcement agencies. The Laws on State Security Service, on Police, and on Prosecutor's Office contain general provisions that ensure the integrity of employees of the law enforcement agencies. These issues are regulated in more detail in the Law on Conflict of Interest and Corruption in Public Service. At the same time, there are problems with the protection of whistle-blowers in the law enforcement agencies.

It should be noted that, in terms of regulating integrity, internal mechanisms of control in the law enforcement agencies are quite weak and general. One of the objectives of the general inspectorates of these agencies is to reveal the conflict of interest of their employees and to exercise control and supervision on their compliance with rules of ethics. In all the three law enforcement agencies, the head of the general inspectorate is appointed and dismissed by the head of the same agency, and the head of the general inspectorate is exclusively accountable to the head of the agency, which, naturally, increases the risk of political influence and raises doubts regarding the effectiveness of these bodies in terms of ensuring integrity.

According to the Law on State Security Service, the office of the Head of the Service is incompatible with any other position in the private or the public sectors. The Head of the Service may not be engaged in any other paid activities except for scientific, pedagogical, or creative ones.⁵⁰⁷ The law also explains issues of work incompatibility. In particular, an officer of the Service may concurrently hold another position or perform other paid work only within the same institution. Employees of the Service are not prohibited from performing scientific, pedagogical, or creative work.⁵⁰⁸

The Law on Police and the Code of Police Ethics regulate the issues of integrity of employees of the Ministry of Internal Affairs. In particular, according to the Law on Police, police officers are prohibited from performing any paid work in any state agency or a commercial enterprise (except for scientific, academic, or creative work).⁵⁰⁹ The law lists disciplinary misconduct, a final judgment delivered against a police officer, and incompatibility with the position held among the formal reasons for a police officer's dismissal.⁵¹⁰ In addition to this law, the Code of Police Ethics covers a number of issues that form the integrity rules of police officers.⁵¹¹

In accordance with the Law on Prosecutor's Office, employees of the Prosecutor's Office are prohibited from performing any paid work in another state agency or a commercial enterprise.⁵¹² One of the advisory bodies created with the purpose of facilitating the activities of the Prosecutor's Office is the Career Management, Ethics and Incentives Council, while one of the powers of this Council is to review matters related to disciplinary misconduct (except for the cases established by this law), incentives, and promotion and to issue recommendations in accordance with the procedures determined by the Prosecutor General, although its

507 Law on State Security Service, Article 8.

508 Ibid., Article 28.

509 Law on Police, Article 36.

510 Ibid., Article 41.

511 Order of the Minister of Internal Affairs N999 of 31 December 2013 on the Approval of the Code of Ethics of the Police of Georgia and the Code of Conduct of some officers of the Ministry of Internal Affairs.

512 Organic Law on the Prosecutor's Office, Article 45.

decisions are only of recommendatory character.⁵¹³ The Code of Ethics of the Prosecutor's Office of Georgia requires that employees of the Prosecutor's Office act in an independent, unbiased, and fair manner when carrying out their professional activities. According to the Code, employees of the Prosecutor's Office must comply with the requirements of the Law on Conflict of Interest and Corruption in Public Service.⁵¹⁴

The Law on Conflict of Interest and Corruption in Public Service establishes the maximum annual value of gifts that public servants (including employees of the law enforcement agencies) can receive: 15% of their annual salary. A similar restriction is in place for their family members. Public officials (including those from the law enforcement agencies) cannot demand payment or gifts for the services that they are required to provide for free under the law, neither are they allowed to make commercial deals with the public agencies where they hold office. Officials and their family members cannot hold positions, work, or own shares in the commercial enterprise whose activities they are to control as part of their official duties. Under the same law, officials (including those from the law enforcement agencies) are to be fined if they fail to submit their asset declarations within the time frame established by law. An official will face criminal charges if he/she fails to submit an asset declaration again within two weeks from being fined.⁵¹⁵ However, the law's provisions on the protection of whistle-blowers still do not extend to the employees of the law enforcement agencies.⁵¹⁶

INTEGRITY (PRACTICE)

Score: 25

To what extent is the integrity of members of law enforcement agencies ensured in practice?

The integrity of the law enforcement agencies is not properly ensured. Response to the cases involving high-ranking officials is especially weak.

The law enforcement agencies are implementing certain measures to ensure integrity in practice. The website of the Ministry of Internal Affairs contains the statistics of disciplinary penalties imposed by the General Inspectorate (Department) on employees of the Ministry (see this chapter's section on accountability). According to the report of the Chief Prosecutor's Office of Georgia, in 2017, employees of the Prosecutor's Office took part in training sessions on the topics of professional ethics, conflict of interest, and protection of personal data. The General Inspectorate of the Prosecutor's Office conducted an official inspection of 21 employees of the Prosecutor's Office, giving a recommendation to four employees and imposing disciplinary liability on 17.⁵¹⁷

According to a 2018 survey, a significant portion of the citizens believe that there is corruption in the police and the Prosecutor's Office. For example, 44% of those surveyed think that there is widespread or some corruption in the Prosecutor's Office. In the case of the police, 41% of those surveyed stated the same position.⁵¹⁸

513 Ibid., Article 21.

514 Order of the Minister of Justice N234 of 25 May 2017 on the Approval of the Code of Ethics of the Prosecutor's Office of Georgia, Article 22.

515 Law on Conflict of Interest and Corruption in Public Service, Articles 5, 9, 10, 13, 20.

516 Ibid., Article 20¹¹.

517 Chief Prosecutor's Office, *2017 Report of the Chief Prosecutor of Georgia*, 6 February 2018, p. 55-56, (in Georgian), <http://bit.ly/2TsScKz>

518 National Democratic Institute (NDI), *Public Attitudes in Georgia - Results of December 2018 Survey*, <http://bit.ly/2QZdVZ1>

Such attitude among the citizens could be linked to the reports regarding the suspicious wealth of a number of high-ranking law enforcement officials which were not followed by effective response from investigative bodies or convincing explanations by the officials themselves.⁵¹⁹

ROLE: CORRUPTION PROSECUTION (LAW AND PRACTICE)

Score: 50

To what extent do law enforcement agencies detect and investigate corruption cases in the country?

Georgia's law enforcement agencies are successful in dealing with some forms of corruption (such as bribery in public services) but their handling of alleged cases of high-level corruption has been ineffective.

According to the Criminal Code of Georgia, the category of official misconduct includes the following offences: abuse of official powers; exceeding official powers; unlawful discharge of the accused from criminal liability; coercion to provide explanation, evidence or opinion; illegal participation in entrepreneurial activities; bribe-taking; bribe-giving; influence peddling; accepting gifts prohibited by law; forgery by an official; neglect of official duty; etc.⁵²⁰

The law enforcement agencies have adequate powers to investigate various types of crimes, including alleged cases of corruption. For this purpose, the law enforcement agencies implement operative and investigative measures and conduct investigative actions such as search and seizure of evidence, the requesting of information, secret monitoring and recording of telephone communications, secret audio and video recording.⁵²¹ The investigative actions that restrict private property rights, ownership, or the right to privacy are carried out based on court warrants, although, in the event of urgent necessity, they can be conducted without a court warrant, in which case their legality is to be assessed *ex post facto*.⁵²² Moreover, in order to ensure seizure of property, a court can, based on the prosecution's motion, freeze the assets of a defendant, a person who bears material responsibility for his/her actions, or a person with ties to him/her.⁵²³ At the same time, based on the prosecution's motion, a defendant can be removed from office (if there are grounds to assume that his/her remaining in the office could obstruct the investigation, prevent compensation for the damage resulting from the crime, or continue criminal activities).⁵²⁴ A prosecutor can ask a court to remand a defendant in custody, while law enforcement officers may detain a suspect without a judge's warrant.⁵²⁵

According to the report of the State Security Service of 2018, the Anti-Corruption Agency of the Service launched an investigation in 71 criminal cases, while 133 individuals were prosecuted.⁵²⁶

519 Reginfo.ge, *How the Property and Income of the Deputy Chief of the State Security Service Increased*, 8 May 2017, (in Georgian), <http://bit.ly/2QY0Grh>; Transparency International Georgia, *Otar Partskhaladze's Property and Business*, <https://www.youtube.com/watch?v=zO5S7TEt9C4>

520 Criminal Code, Chapter XXXIX.

521 Code of Criminal Procedure, Part IV. Law on Operative-Investigative Activities, Article 7.

522 Ibid., Articles 112, 143(3).

523 Ibid., Article 151.

524 Ibid., Article 159.

525 Ibid., Articles 171, 198-199.

526 State Security Service, *2018 Report of the State Security Service*, p. 16, (in Georgian), <http://bit.ly/2RkT4OB>

According to the report of the Chief Prosecutor's Office of Georgia, in 2016 the agency launched an investigation into 784 criminal cases, 52% of which concerned articles involving official misconduct. In 2017, the agency launched an investigation in 724 criminal cases, 57.2% of which concerned articles of official misconduct. In 2016, the Prosecutor's Office initiated a prosecution against 178 individuals, from which 20% of the cases concerned exceeding of official powers (Article 333), while in 2017, the agency initiated a prosecution against 185 individuals, from which 1.7% of the cases concerned exceeding of official powers.⁵²⁷

In spite of the aforementioned cases, a number of high-profile incidents that have taken place in recent years and public opinion polls indicate that, in the absence of political will, the fight against complex forms of corruption is not effective.

The effectiveness of the law enforcement agencies' fight against corruption can be evaluated by several indicators: For example, the crimes of corruption investigated by relevant structures, including incidents of possible corruption related to current or former high-ranking officials and holders of high political office. In this context, thematic studies conducted by international and local organizations also serve as important indicators. For instance, according to the Corruption Perceptions Index, Georgia's score has not improved significantly in recent years.⁵²⁸ The same report notes that Georgia now "faces democratic backsliding, making it both vulnerable to high-level corruption and a country to watch moving forward." The report says that the downturn is due to "a lack of accountability of law enforcement, corruption and political interference in the judiciary, state capture and government-sponsored attacks on independent civil society." The document notes that "Despite an urgent need to investigate cases of corruption and misconduct in the government, Georgia has failed to establish independent agencies to take on this mandate."⁵²⁹

It is noteworthy that most respondents of public opinion polls in recent years have given a negative evaluation to the authorities' fight against corruption.⁵³⁰ According to an opinion poll conducted by the NDI, 30% of those surveyed believe that corruption is very common in the country. It should also be noted that in the opinion of 44% and 41% of those surveyed, corruption is common in the Prosecutor's Office and the police, respectively. In the same survey, the respondents named nepotism and accepting or demanding bribes as the most widespread forms of corruption in the Prosecutor's Office and the police.⁵³¹

According to an opinion poll commissioned by the Open Society Georgia Foundation, 68.8% of those surveyed think that public officials use their power for personal gain, while 58.7% of the respondents believe that public officials back businesses in exchange for money. In the opinion of 60% of the respondents, public officials use their power to conceal crimes.⁵³² According to an opinion poll commissioned by Transparency International Georgia, the majority of those surveyed (51%) think that cases of corruption are not investigated properly when

527 Chief Prosecutor's Office, *2017 Report of the Chief Prosecutor of Georgia*, 6 February 2018, p. 32, (in Georgian), <http://bit.ly/2TsScKz>

528 Transparency International Georgia, *Corruption Perceptions Index 2018: Failure To Investigate High-Level Corruption Causing Lack of Progress*, 29 January 2019, <http://bit.ly/36YILXj>

529 Transparency International, *Eastern Europe & Central Asia: Weak Checks and Balances Threaten Anti-corruption Efforts*, 29 January 2019, <http://bit.ly/2FSe3Da>

530 Transparency International Georgia, *Global Corruption Barometer 2016: Level of Petty Corruption Remains Low in Georgia but People Consider Government's Anti-Corruption Policy Ineffective*, 21 November 2016, <http://bit.ly/2uc3Hv6>

531 National Democratic Institute (NDI), *Public Attitudes in Georgia - Democracy*, Results of December 2018 survey, <http://bit.ly/2QZdVZ1>; National Democratic Institute (NDI), *Public Attitudes in Georgia - Country's Direction and National & Local Issues*, Results of December 2018 survey, <http://bit.ly/2Ny9XEm>

532 Open Society Georgia Foundation, *New Sociological Poll Unfolds the New Picture of Citizens' Perceptions*, 3 April 2019, <http://bit.ly/2stNKA6>

they involve high-ranking officials or influential individuals with links to the ruling party; 42% of those surveyed agree with the statement that the government, in general, protects individuals engaged in corruption, and only 31% think that the government, in general, exposes such individuals.⁵³³

The formation of such views and perceptions in the public may be related to recent high-profile cases which involved former or current holders of high political office and to which the law enforcement agencies did not respond effectively:

- Signs of possible corruption during the transfer of land parcel to a company connected with former Chief Prosecutor Otar Partskhaladze by the Tbilisi City Hall;⁵³⁴
- The case of Omega Group and the possible involvement of high-ranking officials in a corruptions scheme in the tobacco market;⁵³⁵
- Possible cases of high-level corruption in the ministries of economic development and infrastructure;⁵³⁶
- Journalist investigation about declared and undeclared assets accumulated during a short period of time by high-ranking officials of the State Security Service;⁵³⁷
- Possible vote-buying involving 600,000 individuals before the second round of the presidential election in 2018.⁵³⁸

Insufficient independence of the law enforcement agencies and the ruling party's undue influence over their activities (discussed in the relevant section of this chapter) are likely to be among the main reasons for their inability to respond effectively to these and other alleged cases of high-level corruption.

533 Transparency International Georgia, *Corruption Remains Significant Challenge in Georgia*, 15 April 2019, <http://bit.ly/2QUGLcL>

534 Transparency International Georgia, *Unlawful Transfer of Property to Otar Partskhaladze's Company Must be Investigated*, 28 February 2018, <http://bit.ly/2NutzsY>

535 Transparency International Georgia, *Smoke of Corruption: The Grand Scheme to Allocate the Tobacco Market*, 3 October 2018, <http://bit.ly/2TvcW4y>

536 Radio Free Europe / Radio Liberty (Georgian Service), *Corruption Schemes in the Ministries of Economy and Infrastructure*, 18 July 2018, (in Georgian), <http://bit.ly/2QY3sgb>

537 Reginfo.ge, *How the Property and Income of the Deputy Chief of the State Security Service Increased*, 8 May 2017, (in Georgian), <http://bit.ly/2QY0Grh>

538 OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019, p. 27, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

ELECTORAL ADMINISTRATION

The electoral administration mostly performs well in terms of organizing elections, although there are significant shortcomings in terms of the professionalism of PEC members. Some of the electoral administration's decisions raise questions regarding its independence. In recent years, there have been possible cases of favouritism and nepotism in the selection of PEC and DEC members.

Electoral Administration Final Score: 68			
Dimension	Indicator	Law	Practice
Capacity: 58.3	Resources		50
	Independence	75	50
Governance: 70.8	Transparency	100	75
	Accountability	50	50
	Integrity	100	50
Role: 75	Election Administration	75	
Law and practice average scores		80	58.3

STRUCTURE AND ORGANISATION

Georgia's electoral administration is made up of the Central Electoral Commission (CEC), District Electoral Commissions (DECs) and Precinct Electoral Commissions (PECs). The formation principles, rules, powers, and responsibilities of the administration are detailed in the Electoral Code of Georgia.⁵³⁹ The CEC oversees all tiers of electoral commissions and ensures uniform application of electoral legislation nationwide. The CEC consists of the chairperson and 11 members. Five members of the CEC are elected by the Parliament of Georgia based on nominations by the President of Georgia, while six members are appointed by political parties according to the procedure established by the law.⁵⁴⁰

The CEC chairperson is elected, based on the Georgian president's nomination, by the members of CEC, or by the Parliament of Georgia (if the CEC itself fails to elect the chairperson), for a period of five years.

DECs are permanent bodies established by the CEC. Each DEC has five members appointed for five-year terms by the CEC. Seven additional members (six appointed by political parties

⁵³⁹ Electoral Code, Article 2.

⁵⁴⁰ Ibid., Article 2, Chapter 10.

and one appointed by the CEC) join the DEC's after an election is called and serve until the announcement of its final results.⁵⁴¹ PECs consist of 12 members, six of them appointed by the relevant DEC's and another six -- by political parties.⁵⁴²

RESOURCES (PRACTICE)

Score: 50

To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?

Georgia's electoral administration receives stable funding and has made considerable efforts to improve the qualifications of its members and employees, although notable problems remain in terms of the professionalism of PEC members.

Georgia's electoral management body has received stable funding in recent years (see chart). The drop in funding in 2019 stems from the fact that no nationwide elections were scheduled to take place in 2019, while the administration's core funding actually increased slightly. The number of employees has also remained stable. There have been no reports of disruptions in the administration's work linked to lack of funding or delays in the transfer of the allocated funds.

	2016	2017	2018	2019
Total funding	69.9	64.2	67.0	27.4
Number of employees	494	500	500	531
Funding for elections	46.0	37.9	40.1	0.00
Funding for electoral system development	10.2	11.0	11.2	11.9

Chart 1. The electoral administration's funding (millions of GEL) and number of employees. Source: The Georgian Ministry of Finance, www.mof.ge

The CEC has engaged in efforts aiming to improve the qualifications of electoral administration members. The CEC has developed a training module for new employees, designed to introduce them to the standard administrative procedures, the code of ethics, and internal regulations. The CEC's training centre has a certification mechanism for the members of electoral administration. Candidates seeking to become CEC members or staff members, as well as DEC members, must obtain an electoral official's certificate which is valid for five years.⁵⁴³

The CEC's training centre has a training program in place for the members of electoral commissions which is designed to better equip them with the skills to better address election-re-

541 Ibid., Article 19.
542 Ibid., Article 24.
543 Interview with Tamar Shukakidze, Head of Human Resources Department at the Central Election Commission, Tbilisi, 21 June 2019.

lated complaints and provide timely and accurate information to the public.⁵⁴⁴ In 2017, the CEC provided a series of media relations trainings for the DEC members. In 2017, the CEC made an effort to enhance the qualification of employees by developing and introducing training policy for the continuous education of the EMB staff.⁵⁴⁵ According to the CEC, these training activities are conducted regularly.⁵⁴⁶

On the negative side, the certification requirement does not apply to PEC members. Consequently, there have been shortcomings in certain parts of the electoral process (most notably, vote counts and handling of complaints) which have been highlighted by observers⁵⁴⁷ and suggest that qualification of electoral officials remains a problem at the PEC level. Also, during the elections held in 2016-2018, observers repeatedly highlighted the problem of inadequate premises resulting in overcrowding in some polling stations, which, according to them, had a negative impact on voting and vote count.⁵⁴⁸

INDEPENDENCE (LAW)

Score: 75

To what extent is the electoral management body independent by law?

Georgia's legal framework provides safeguards against undue influence over the electoral administration but a number of gaps remain.

The law contains a number of important provisions that reinforce the independence of electoral administration. The Electoral Code highlights the electoral administration's independence from other state bodies and prohibits interference in its work.⁵⁴⁹ According to the Code, members and employees of electoral commissions are electoral officials and are prohibited from affiliation with political parties.⁵⁵⁰

Additionally, the OSCE ODIHR has highlighted the allocation of commission seats to political parties as a problem, noting that "if parties retain the right to nominate commission members, the appointment formula could be reviewed to ensure more balanced political representation and contribute to the perception of impartiality."⁵⁵¹ According to an expert interviewee, the current distribution of seats in the electoral commissions creates an unfair environment and undermines the administration's reputation as an independent government body.⁵⁵²

Election officials are partially protected by the law from arbitrary dismissal. Early removal of the CEC chairperson and members requires a parliamentary resolution and the law estab-

544 Central Election Commission, *Annual Report (2018)*, pp. 93-96, <http://bit.ly/2RDwjfB>

545 Central Election Commission, *Annual Reports (2017- 2018)*, <http://bit.ly/30rWPWP>

546 Transparency International Georgia's correspondence with the Central Electoral Commission, November 2019.

547 OSCE ODIHR, *Georgia Parliamentary Election 2016 - Election Observation Mission Final Report*, 3 February 2017, p. 1, <http://bit.ly/2TtAt5T>; OSCE ODIHR, *Georgia Local Elections 2017 - Election Observation Mission Final Report*, 23 February 2018, p. 3, <http://bit.ly/36V0COH>; OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019, pp. 1-3, <http://bit.ly/2QPqJAW>

548 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 23, OSCE ODIHR, *2017 Local Elections Report*, p. 24; OSCE ODIHR, *2018 Presidential Election Report*, p. 29.

549 Electoral Code, Articles 7-8.

550 Ibid., Article 16.

551 OSCE ODIHR, *2018 Presidential Election Report*, pp. 6-7.

552 Interview with Elene Nizharadze, Election Expert at International Society for Fair Elections and Democracy (ISFED), Tbilisi, 25 June 2019.

lishes the conditions under which the Parliament can do this (limited to various violations of the law).⁵⁵³ On the other hand, political parties can recall the commission members whom they have appointed, the only restriction being that they cannot do so during the period of time between the announcement of an election date and the announcement of final election results.⁵⁵⁴

INDEPENDENCE (PRACTICE)

Score: 50

To what extent does the electoral management body function independently in practice?

The CEC has generally operated in a professional manner but some of its decisions have brought its impartiality into question. There are further problems in terms of the independence of lower-level commissions.

The electoral administration has had a mixed record in recent years, as far as its independence is concerned. The OSCE ODIHR noted in its assessments of the 2016 parliamentary, the 2017 local, and the 2018 presidential elections that, while the CEC initially enjoyed the confidence of key stakeholders, the level of confidence subsequently fell because of some shortcomings, especially after the first round of the vote (in 2016 and 2018).⁵⁵⁵

The electoral administration was criticized over its controversial selection of the date for the second round of the 2018 presidential election.⁵⁵⁶ The decision to hold the elections mid-week (instead of a weekend) was viewed as favourable to the ruling party. Moreover, a leading member of the ruling party publicly mentioned the second-round date before the CEC had made the decision, further reinforcing suspicions of undue influence over the commission's work.⁵⁵⁷

The process of appointment of lower-level commission members has also been controversial.

During the 2016 parliamentary elections, the OSCE ODIHR noted that the election results "heavily favoured" the ruling party in the precincts where party appointees served as PEC chairpersons.⁵⁵⁸ Local observers reported instances when DEC members used predetermined lists for the selection of PEC members. These lists allegedly (predominantly) included family members and relatives of the activists and affiliates of the Georgian Dream party. ISFED had later obtained these predetermined lists in the districts of Ozurgeti, Kobuleti, Samtredia and Senaki.⁵⁵⁹ Similar problems were identified during the 2017 local⁵⁶⁰ and the 2018 presidential⁵⁶¹ elections.

553 Electoral Code, Article 29.

554 Ibid., Article 13.

555 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 2; OSCE ODIHR, *2017 Local Elections Report*, pp. 1-2; OSCE ODIHR, *2018 Presidential Election Report*, p. 2.

556 OSCE ODIHR, *2018 Presidential Election Report*, pp. 7-8.

557 Transparency International Georgia, *The CEC Decision Overlooks Interests of Georgian Citizens*, 17 November 2018, <http://bit.ly/30sUKDq>

558 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 7.

559 International Society for Fair Elections and Democracy, *ISFED's Final Report of Election Observation Mission for the 2016 Parliamentary Elections*, 2017, pp. 16-17, <http://bit.ly/379oP48>

560 OSCE ODIHR, *2017 Local Elections Report*, p. 6.

561 Transparency International Georgia, *Evaluation of the Pre-Election Environment of the 2018 Presidential Election*, 3 November 2018, <http://bit.ly/3ajAXRM>

TRANSPARENCY (LAW)

Score:100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the Electoral Management Body?

The legal framework contains comprehensive provisions on the transparency of electoral administration.

The Electoral Code requires that the CEC provide election related documents within two days of receiving a request. Electoral commission meetings are open and accredited media representatives and observers are authorized to attend them.⁵⁶² PECs are required to publicly display voter lists.⁵⁶³ The CEC is required to post vote tally protocols, precinct-by-precinct vote results and final election results' protocol on its website.⁵⁶⁴ The transparency of the electoral process could be jeopardized by the planned amendments in the electoral law, whereby PECs would no longer be required to send voting result protocols directly to the CEC, which could impede timely publication of election results.⁵⁶⁵

International organizations, the media, and non-governmental organizations are authorized to enter polling stations on election day. Observation of the electoral process is open to all observers and political party representatives upon registration. The observers, political party and media representatives are authorized to monitor electoral processes, voter registration, as well as the polling process and vote count, receive copies of vote and election results protocols.⁵⁶⁶

TRANSPARENCY (PRACTICE)

Score: 75

To what extent are reports and decisions of the electoral management body made public in practice?

The electoral administration generally operates in a transparent manner, although there have been some notable exceptions.

The electoral administration's work has mostly been assessed positively in terms of the openness of commission meetings and the transparency of candidate registration, adjudication of complaints, voting, vote count and tabulation.⁵⁶⁷ The OSCE ODIHR has praised the CEC for regularly holding briefings for stakeholders, promptly posting its own decisions and those of the DEC on its website, and maintaining an online register of complaints.⁵⁶⁸

⁵⁶² Electoral Code, Chapter 2, Article 8.

⁵⁶³ Ibid., Article 34.

⁵⁶⁴ Ibid., Chapter 3, Article 76.

⁵⁶⁵ ISFED, Planned Amendments to the Electoral Code Threaten Transparency of Elections, 14 January 2020, <http://www.isfed.ge/eng/gantskhadebebi/saarchevno-kodeqsshi-dagegmili-tsvlilebe-bi-safrtkhes-uqmnis-archevnebis-gamchvirvelobas>

⁵⁶⁶ Ibid., Chapter 5.

⁵⁶⁷ OSCE ODIHR, 2016 Parliamentary Election Report, p. 3; OSCE ODIHR, 2017 Local Elections Report, pp. 2, 7, 25, 28; OSCE ODIHR, 2018 Presidential Election Report, pp. 1-4, 21-22, 30.

⁵⁶⁸ OSCE ODIHR, 2016 Parliamentary Election Report, p. 7; OSCE ODIHR, 2018 Presidential Election Report, pp. 7, 20.

Nevertheless, observers have highlighted some cases where the administration's activities were not sufficiently transparent. These include an opaque process for the selection of PEC members, PECs' not completing protocols properly and not displaying them publicly, and the CEC's holding informal preparatory meetings which were closed to observers.⁵⁶⁹ Moreover, although, as noted above, the hearing of complaints has generally been transparent, this was often not the case during the adjudication of disputes between the first and second rounds of the 2016 parliamentary elections. Similarly, during the 2018 presidential election, DEC's did not always consider complaints in a transparent manner and used pre-drafted decisions.⁵⁷⁰

ACCOUNTABILITY (LAW)

Score: 50

To what extent are there provisions in place to ensure that the EMB has to report and be answerable for its actions?

The legal framework designed to ensure the electoral management body's accountability is mostly strong, although there are problems regarding the adjudication of electoral complaints.

The CEC is accountable to the Parliament and is required to submit a report within 60 days of producing final election results.⁵⁷¹ The State Audit Office has the authority to review the electoral administration's spending.⁵⁷²

Election-related complaints can be filed with electoral commissions or courts. Complaints against PEC decisions can be filed with DEC's, while complaints against DEC decisions can be filed with either the CEC or a court, and the CEC's decisions can be challenged in court.⁵⁷³

The OSCE ODIHR has described the legal provisions on electoral complaints as "complex and unnecessarily restrictive," criticizing the complexity of the process, the fact that voters can only file complaints over their non-inclusion in a voters' list and the fact that decisions of the CEC Chairperson not to seek sanctions for campaign violations are not subject to appeal. The organization has recommended simplifying the complaints procedures and eliminating the restrictions on the citizens' rights to file complaints.⁵⁷⁴

ACCOUNTABILITY (PRACTICE)

Score: 50

To what extent does the EMB have to report and be answerable for its actions in practice?

The electoral administration's accountability is only ensured partially in practice due to the shortcomings in the dispute resolution process.

The assessment of the complaints process during the 2016 parliamentary, the 2017 local, and the 2018 presidential elections by the OSCE ODIHR has been mixed. While the organiza-

⁵⁶⁹ OSCE ODIHR, *2017 Local Elections Report*, p. 7; OSCE ODIHR, *2018 Presidential Election Report*, pp. 7, 30.

⁵⁷⁰ OSCE ODIHR, *2018 Presidential Election Report*, p. 23.

⁵⁷¹ Electoral Code, Article 14.

⁵⁷² Law on State Audit Office, Article 17, Paragraph 2, Subparagraph k).

⁵⁷³ Electoral Code, Chapter 9, Article 77.

⁵⁷⁴ OSCE ODIHR, *2018 Presidential Election Report*, p. 20.

tion has praised the transparency of the process (especially during the pre-election period), its findings regarding the adjudication of post-election disputes and those between the first and second rounds of the elections have been less positive. Overall, the organization has identified several persistent problems, including an overly formalistic application of the rules, the lack of uniform application of the law, and the unwillingness of both the electoral commissions and the courts to examine cases thoroughly.⁵⁷⁵

While the unnecessarily complicated legislative framework has contributed to the shortcomings of the dispute resolution process, according to a CEC representative, the difficulty of recruiting highly qualified professionals as commission members has also had a negative impact on the process.⁵⁷⁶ On the other hand, an expert interviewee from a watchdog CSO suggested that the problems concerning the handling of electoral complaints and pre-election campaign violations (which, in her opinion, have worsened significantly since the 2016 parliamentary elections) also stem from the electoral administration's reluctance to effectively address the majority of complaints and resort to sanctions against commission members.⁵⁷⁷

INTEGRITY (LAW)

Score: 100

To what extent are there mechanisms in place to ensure the integrity of the electoral management body?

There is a strong legal framework in place for ensuring the integrity of the electoral management body staff.

The electoral administration has a binding Code of Ethics which all of its members are required to follow. The Code establishes, among others, rules concerning impartiality, conflict of interests and gifts.⁵⁷⁸ Additionally, the CEC chairperson, deputy chairperson and secretary have the status of public officials,⁵⁷⁹ while the CEC staff members have the status of civil servants.⁵⁸⁰ They are therefore required to comply with the integrity-related provisions of the Law on Civil Service and the Law on Conflict of Interest and Corruption in Public Institution which are detailed in the relevant chapters of this report.

INTEGRITY (PRACTICE)

Score: 50

To what extent is the integrity of the electoral management body ensured in practice?

The integrity of electoral administration members is only partially ensured in practice.

The electoral administration has taken some steps to promote the integrity of its members. For example, in October 2018, all members of electoral commissions at all levels signed the

575 OSCE ODIHR, *2016 Parliamentary Election Report*, pp. 2-3, 26; OSCE ODIHR, *2017 Local Elections Report*, pp. 1, 3, 21-22, 26; OSCE ODIHR, *2018 Presidential Election Report*, pp. 20, 23, 31.

576 Interview with Tamar Shukakidze, Head of Human Resources Department at the Central Election Commission, Tbilisi, 21 June 2019.

577 Interview with Elene Nizharadze, Election Expert at International Society for Fair Elections and Democracy (ISFED), Tbilisi, 25 June 2019.

578 Decree #14/2012 of the Central Electoral Commission of Georgia, adopted on 9 March 2012.

579 Law on Conflict of Interest and Corruption in Public Service, Article 2.

580 Electoral Code, Article 7.

Code of Ethics, committing themselves to acting in line with the electoral legislation and in a fair, impartial, and independent manner.⁵⁸¹

On the negative side, there have been signs of favouritism and nepotism in the selection of DEC and PEC members. During the 2016 parliamentary elections, DEC members allegedly used predetermined lists for the selection of PEC members which allegedly included family members and relatives of the activists and affiliates of the Georgian Dream Party.⁵⁸² During the 2018 presidential election, 14 of the 73 temporary DEC members were relatives of electoral administration officials and eight were supporters or activists of the ruling party.⁵⁸³

The size of bonuses received by CEC members and staff has also raised concerns.⁵⁸⁴

ROLE: ELECTION ADMINISTRATION (LAW AND PRACTICE)

Score: 75

Does the EMB effectively oversee and administer free and fair elections and ensure the integrity of the electoral process?

The electoral administration has made significant efforts to hold free and fair elections but some serious problems, including the misuse of administrative resources and the electoral administration's inadequate reaction to such cases, have affected the overall integrity of the process.

The administration is responsible for administering and overseeing various stages of the electoral process, including the registration of voters and political candidates, overseeing the campaign, the vote, vote count and tabulation of election results.⁵⁸⁵

The OSCE ODIHR's assessment of the quality of administration of the 2016 parliamentary elections, the 2017 local elections, and the 2018 presidential election was positive.⁵⁸⁶

The CEC has engaged in significant educational activities in recent years, conducting training sessions for commission members at all levels of the administration, along with information campaigns designed to encourage the participation of voters, including those with disabilities.⁵⁸⁷

The administration has performed well in terms of handling the voter lists. The OSCE ODIHR has noted the administration's "commendable efforts" to improve the quality of the lists and a "high level of confidence" in their accuracy among the stakeholders, emphasizing that

581 Central Election Commission, *Report on the October 28, 2018 Election of President of Georgia*, February 2019, <http://cesko.ge/res/docs/20190415171028AnnualReport-2019Eng.pdf>

582 International Society for Fair Elections and Democracy, *ISFED's Final Report of Election Observation Mission for the 2016 Parliamentary Elections*, 2017, pp. 16-17, <http://bit.ly/379oP48>

583 International Society for Fair Elections and Democracy, Transparency International Georgia, Georgian Young Lawyers Association, *Evaluation of the Pre-Election Environment of the 2018 Presidential Elections*, 3 November 2018, <http://bit.ly/3ajAXRM>

584 International Society for Fair Elections and Democracy, *CEC Salary Expenditures are Unreasonably High*, 10 May 2016, <http://old.isfed.ge/main/1047/eng/>

585 Electoral Code, Article 14.

586 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 1; OSCE ODIHR, *2017 Local Elections Report*, p. 1; OSCE ODIHR, *2018 Presidential Election Report*, p. 1.

587 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 8; OSCE ODIHR, *2017 Local Elections Report*, pp. 2-3, 19; OSCE ODIHR, *2018 Presidential Election Report*, p. 8.

voters had “ample opportunity” to verify their registration.⁵⁸⁸ The registration of domestic and international observers has been assessed in a similarly positive manner.⁵⁸⁹ Candidate registration has been described as “transparent and inclusive.”⁵⁹⁰

The administration has generally been able to ensure a free and calm campaigning process during the recent elections.⁵⁹¹ However, there have been some notable instances of violence, while the misuse of administrative resources and the electoral administration’s inadequate reaction to such cases, as well as the pressure on public sector employees, candidates and voters, remain a problem affecting the fairness of the elections.⁵⁹²

The electoral commissions have generally performed well on election days and have managed to ensure proper application of voting procedures, although they have been less successful in their handling of vote counts as observers have detected multiple irregularities.⁵⁹³ The shortcomings of the dispute resolution process described in the accountability section above have also affected the overall quality of the process.

588 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 1; OSCE ODIHR, *2017 Local Elections Report*, p. 2; OSCE ODIHR, *2018 Presidential Election Report*, p. 2.

589 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 3; OSCE ODIHR, *2017 Local Elections Report*.

590 OSCE ODIHR, *2017 Local Elections Report*, p. 2; OSCE ODIHR, *2018 Presidential Election Report*, p. 10.

591 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 2; OSCE ODIHR, *2017 Local Elections Report*, p. 2; OSCE ODIHR, *2018 Presidential Election Report*, p. 1.

592 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 12; OSCE ODIHR, *2017 Local Elections Report*, pp. 12-13; OSCE ODIHR, *2018 Presidential Election Report*, pp. 11-12.

593 OSCE ODIHR, *2016 Parliamentary Election Report*, p. 23; OSCE ODIHR, *2017 Local Elections Report*, p. 23; OSCE ODIHR, *2018 Presidential Election Report*, pp. 21-22.

PUBLIC DEFENDER

The Public Defender has sufficient resources for the effective performance of its role and has operated in an independent and transparent manner, effectively responding to citizens' complaints, conducting investigations proactively, and preparing recommendations for the improvement of practices in the field of human rights. However, the effectiveness of the Public Defender's work is, at times, undermined by noncooperative attitude of other public bodies and their failure to comply with the Public Defender's recommendations.

Public Defender Final score: 80.5			
Dimension	Indicator	Law	Practice
Capacity: 83.3	Resources		75
	Independence	75	100
Governance: 95.8	Transparency	100	100
	Accountability	75	100
	Integrity	100	100
Role: 62.5	Investigation	75	
	Promoting good practice	50	
Law and practice average scores		79.1	85.7

STRUCTURE AND ORGANISATION

Under the Constitution, the Public Defender is elected by the Parliament for a six-year term.⁵⁹⁴ The powers and responsibilities of the Public Defender are established by the Organic Law on Public Defender.⁵⁹⁵ According to the Law, the Public Defender oversees the respect of human rights and freedoms by the central and local government bodies, public agencies and officials, while also being responsible for facilitating the eradication of all forms of discrimination in the public and the private sectors.⁵⁹⁶ The Public Defender's Office (PDO) is established in order to facilitate the Public Defender's work.⁵⁹⁷

⁵⁹⁴ Constitution of Georgia, Article 35.

⁵⁹⁵ Law on Public Defender.

⁵⁹⁶ Ibid., Article 3.

⁵⁹⁷ Ibid., Article 26.

RESOURCES (PRACTICE)

Score: 75

To what extent does the public defender have adequate resources to achieve its goals in practice?

The PDO's financial and human resources are generally sufficient for the institution's uninterrupted operation, although the PDO's lack of its own building is a significant challenge.

In order to facilitate the PDO's effective operation, all public institutions and officials are required by the law to assist the Public Defender and to immediately provide any information and materials requested by the Public Defender.⁵⁹⁸

The PDO's funding remained stable between 2016 and 2019. It decreased in 2018 but then increased again and rose above the 2016 level in 2019 (see the table below). There have been no reports about any delays in the transfer of state funding to the PDO. The PDO also receives funding from international donors which is used for the implementation of various projects.⁵⁹⁹

The number of PDO employees has not changed in recent years (see the table below). According to a Deputy Public Defender, most of the PDO employees are well-trained professionals, although there are some employees who need more training and it would have a positive impact on the institution's work.⁶⁰⁰

	2016	2017	2018	2019
State funding for Public Defender's Office	6.0	6.4	5.5	6.4
Number of employees	123	123	123	123

*Table: The size of state funding (in millions of GEL) and the number of employees of the Public Defender's Office.*⁶⁰¹

In 2018, the PDO had to move out of its public premises due to the building's poor condition and later moved into a rented space. According to the Public Defender's statement, some of the funds allocated for the PDO's capacity building had to be used for paying the office rent and the PDO was also unable to raise the salaries of its employees in 2019.⁶⁰²

INDEPENDENCE (LAW)

Score: 75

To what extent is the public defender independent by law?

The law contains strong provisions designed to ensure the Public Defender's independence.

⁵⁹⁸ Ibid., Article 23.

⁵⁹⁹ Interview with Giorgi Burjanadze, Deputy Public Defender, June 2019.

⁶⁰⁰ Ibid.

⁶⁰¹ Ministry of Finance, www.mof.ge

⁶⁰² Netgazeti, *Public Defender's Statement on Its Office Rent*, 23 January 2019, (in Georgian), <https://netgazeti.ge/news/335360/>

The status of Georgia's Public Defender is anchored in the Constitution, which emphasises that obstruction of the Public Defender's work is a punishable offence.⁶⁰³ In addition, the Law on the Public Defender prohibits any kind of pressure on the Public Defender or interference with its work. Information regarding any kind of obstruction of the Public Defender's activities must be included in the Public Defender's annual report and discussed in parliament.⁶⁰⁴

The Public Defender enjoys immunity under the law and cannot be arrested or charged with a crime without parliament's consent. The Public Defender must be provided with the necessary conditions for an unhindered discharge of its duties and the state must provide protection for the Public Defender's family if requested. Importantly, the Public Defender's work cannot be suspended or restricted during the state of emergency or the state of war.⁶⁰⁵

The Public Defender is elected by parliament for a period of six years. The law's list of legitimate reasons for early dismissal of the Public Defender is short, specific and reasonable. Dismissal is only possible through a parliamentary decision. In order to ensure the Public Defender's impartiality, the law prohibits the Public Defender from engaging in commercial or political activities and from holding another public office.⁶⁰⁶

The Public Defender has the power to determine the structure and the operational rules of his/her staff.⁶⁰⁷ As a further independence safeguard, the budget allocations for the salaries of the Public Defender's Office cannot be reduced (compared to the preceding year's allocations) unless the Public Defender consents to the reduction.⁶⁰⁸ On the negative side, this provision does not apply to the PDO's entire budget.

INDEPENDENCE (PRACTICE)

Score: 100

To what extent is the public defender independent in practice?

The Public Defender has operated independently in practice.

There have been no reported instances of direct interference in the Public Defender's activities or the Public Defender's engaging in the kind of activities that are restricted by the law and that could undermine the institution's independence. Neither has a Public Defender been removed from the office before the end of the term. According to the Deputy Public Defender, the PDO has been working uninterruptedly and without external interference.⁶⁰⁹

On the negative side, both the current and the previous Public Defenders have been subjects of undue verbal attacks. Former Public Defender Ucha Nanuashvili highlighted in late 2017 attacks against the institution by representatives of the government, the parliamentary majority and the judiciary.⁶¹⁰ Around the same time, the Council of Europe's Human Rights Commissioner expressed his concern over possible "damage" resulting from the "verbal attacks"

603 Constitution of Georgia, Article 35.

604 Law on Public Defender, Articles 4, 25.

605 Ibid., Articles 5, 1.

606 Ibid., Articles 6-8, 10.

607 Ibid., Article 26.

608 Ibid., Article 25.

609 Interview with Giorgi Burjanadze, Deputy Public Defender, June 2019.

610 Imedi News, *The Ombudsman Spoke with Council of Europe Lawmakers on Human Rights Issues in Georgia*, 22 November 2017, (in Georgian), <http://bit.ly/3a4g5hp>

against the Public Defender by high-ranking public officials.⁶¹¹ Current Public Defender Nino Lomjaria has also spoken publicly about receiving death threats.⁶¹² PDO representatives were also targeted by a violent far-right radical group in Tbilisi in June 2019.⁶¹³

TRANSPARENCY (LAW)

Score: 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the public defender?

Georgia has comprehensive legal provisions to ensure transparent operation of the PDO.

The PDO is obligated to publish its activity reports, which includes investigation findings and recommendations regarding various cases. This information is required to be included in the PDOs annual report to the Parliament of Georgia. In turn the legislature is required to disseminate PDO's annual reports via its official bulletin.⁶¹⁴ In addition, the Public Defender must notify the complainants about the results of the inquiries carried out in response to their appeals.⁶¹⁵ The Public Defender and Deputy Public Defenders are required to file a detailed annual asset declaration, which is a publicly available document.⁶¹⁶

The general provisions on access to public information also apply to the PDO.⁶¹⁷ Proactive publication of information is regulated by the Public Defender's decree which also establishes the types of information which are to be published proactively.⁶¹⁸ Additionally, to facilitate public participation in the PDO's work, the law provides for the establishment of public councils.⁶¹⁹

TRANSPARENCY (PRACTICE)

Score: 100

To what extent is there transparency in the activities and decision-making process of the public defender in practice?

The Public Defender's Office operates transparently in practice, publishing comprehensive information about its activities.

The Public Defender's website⁶²⁰ contains extensive information about the institution, including the information about the Public Defender and her deputies, the PDO's structure and internal regulations, information about the PDO's procurement and the projects implemented by the institution.

611 Liberali, Nils Muiznieks: *I consider verbal attacks on the institution of the Public Defender unacceptable*, 18 November 2017, (in Georgian), <http://bit.ly/2NjFbil>

612 Reginfo.ge, *Public Defender: I was being threatened with a bullet to my head*, 12 November 2018, (in Georgian), <http://bit.ly/30gaMa4>

613 Institute for Development of Freedom of Information, *Statement by NGOs on the 14 and 16 June Events*, 18 June 2019, https://idfi.ge/en/statement_of_ngos_on_june_14_16_case

614 Law on Public Defender, Article 22.

615 Ibid., Article 17.

616 Law on Conflict of Interest and Corruption in the Public Service, Articles 2, 14-19.

617 General Administrative Code of Georgia, Articles 10, 28, 38, 40.

618 Public Defender's Decree #98, 7 June 2019.

619 Law on Public Defender, Article 26.

620 Website of the Public Defender's Office, www.ombudsman.ge

The Public Defender's annual parliamentary reports, activity reports and special reports are also posted on the website along with the recommendations issued by the Public Defender. The asset declarations of the Public Defender and her deputies are available to the general public through the dedicated website.⁶²¹

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there provisions in place to ensure that the public defender has to report and be answerable for its actions?

The legal provisions concerning the Public Defender's accountability are generally strong.

The Public Defender is accountable to the Parliament and is required to submit annual reports to the legislature, describing the general situation in the country in terms of the protection of human rights. The report must also list the government bodies and officials that have violated human rights and have ignored the Public Defender's recommendations. The Public Defender must provide its general opinion, findings and recommendations regarding the situation in the field of human rights. The annual report is a public document and the responsibility for releasing it lies with the Parliament.⁶²² However, beyond this annual reporting, accountability provisions are somewhat limited. The law authorises (but does not require) the Public Defender to inform the media about the results of investigations.⁶²³

The activities of the Public Defender and the PDO are subject to judicial review in the same manner as those of other public bodies and officials. Since the PDO is part of the public service, the general accountability mechanisms discussed in the chapter on Public Administration (including whistle-blowing provisions) also apply to the employees of the PDO.

ACCOUNTABILITY (PRACTICE)

Score: 100

To what extent does the ombudsman have to report and be answerable for its actions in practice?

The legal provisions on the Public Defender's accountability are generally applied properly in practice.

The Public Defender submits annual reports on the situation in Georgia in terms of the protection of human rights to the Parliament as required by the law and the reports provide a detailed account of the PDO's findings in each of the areas covered. The reports are discussed at parliamentary sessions.⁶²⁴ These reports provide a more comprehensive analysis and review of the current human rights issues in the country, as well as the statistical data related to the cases of human rights violations, legal proceedings, etc.⁶²⁵ The PDO also pub-

621 Public Official Asset Declarations Database, www.declaration.gov.ge

622 Law on Public Defender, Article 22.

623 Ibid., Chapter 3, Article 21.

624 Parliament of Georgia, *Public Defender Reporting to the Parliament for the Year 2018*, 19 September 2019, <http://bit.ly/2Rdi4Yc>; Parliament of Georgia, *The Public Defender Reporting to the Parliament*, 19 July 2018, <http://bit.ly/2QPeLay>

625 Public Defender's Office, Parliamentary Reports, <http://www.ombudsman.ge/eng/saparlamento-angarishebi>

lishes annual activity reports, although the most recent report in the relevant section of the PDO's website is for 2017 and no report has been published for 2018.⁶²⁶

The PDO publishes regular updates about the institution's activities in the relevant section of its website.⁶²⁷ Between 2015 and 2017 the Public Defender's office, actively held press briefings, and published close to 1,000 press releases, as well as produced numerous informational and monitoring bulletins.⁶²⁸

INTEGRITY (LAW)

Score: 100

To what extent are there provisions in place to ensure the integrity of the public defender?

There is a comprehensive legal framework in place to ensure the integrity of the Public Defender and the PDO's employees.

The Public Defender is prohibited from joining political parties and engaging in political activities.⁶²⁹ The Public Defender has a legal obligation to follow the general integrity rules (including rules on conflict of interest, gifts, etc) discussed in the chapters on the Public Administration, the Executive Branch and the Legislature. The Rules of Conduct for public servants discussed in the Public Administration chapter apply to the employees of the PDO.

The PDO also has a document on internal regulations which establish rules of conduct for its employees and cover a variety of issues, including conflict of interest, ethics integrity and confidentiality.⁶³⁰

INTEGRITY (PRACTICE)

Score: 100

To what extent is the integrity of the ombudsman ensured in practice?

The integrity of the Public Defender and the PDO's employees is ensured sufficiently in practice.

The PDO has a designated human resources department which oversees performance reviews, compliance assessments, and conducting staff training. According to the PDO, there has been a limited number of cases in recent years in which PDO employees committed violations and received warnings for their actions. Only one of these violations was deemed gross misconduct, resulting in the dismissal of the employee in question⁶³¹

626 Public Defender's Office, Activity Reports, <http://ombudsman.ge/eng/saqmianobis-angarishe-bi>

627 Public Defender's Office, News, <http://ombudsman.ge/eng/akhali-ambebi>

628 Public Defender's Office, 2012-2017 Performance Report of the Public Defender of Georgia, 6 December 2017, (in Georgian), <http://www.ombudsman.ge/res/docs/2019041316073396284.pdf>

629 Law on Public Defender, Article 8.

630 Public Defender's Office, Internal Code of Conduct, Tbilisi, 28 January, 2019, (in Georgian), <http://www.ombudsman.ge/res/docs/2019041114512662253.pdf>

631 Transparency International Georgia's correspondence with the Public Defender's Office concerning public information request, 17 September 2019.

There have been no known cases in recent years of either the Public Defender or the PDO's employees engaging in corruption or violating any of the relevant legislative provisions.

ROLE: INVESTIGATION (LAW AND PRACTICE)

Score: 75

To what extent is the ombudsman active and effective in dealing with complaints from the public?

The Public Defender has reviewed a large number of citizens' complaints and has also launched investigations proactively, although, in some cases, the uncooperative attitude of certain public institutions has had a negative impact on the PDO's work.

The Public Defender has broad legal powers in terms of investigation of alleged violations of human rights. According to the law, the Public Defender is responsible for exposing the violations of human rights and freedoms and also serves as the National Preventive Mechanism of the United Nations Convention Against Torture.⁶³² The Public Defender independently monitors the situation in the country in terms of the protection of human rights and can launch inquiries into alleged violations both proactively and in response to complaints. The Public Defender is required to consider complaints and appeals of individuals, legal entities and political and religious groups concerning the actions of government bodies and officials. The appeals sent to the Public Defender by individuals held in prisons and other detention facilities are confidential and cannot be opened or censored prior to their delivery to the Public Defender. The Public Defender is required to notify any complainant about the results of the inquiry.⁶³³

During the inquiries, the Public Defender is entitled to unhindered access to all government and public institutions, including prisons and military units and it can require any official to provide a written explanation regarding the matter in question. All government/public bodies and officials must provide the Public Defender with requested documents and materials immediately or within a maximum of 10 days. If suspicions of a crime arise, the Public Defender can request that the law enforcement bodies launch criminal proceedings. Otherwise, the Public Defender can recommend that the agencies in question apply disciplinary sanctions against the violators. In special cases, the Public Defender can recommend the establishment of an ad hoc investigatory commission in parliament to handle the alleged violation of human rights.⁶³⁴

The procedure for submitting complaints with the PDO is fairly simple and is possible through personal appointment as well as an online system. The Public Defender's website contains a user-friendly guide concerning individuals rights, and a detailed instruction on how to lodge a complaint within the Public Defender.⁶³⁵

The number of complaints filed with the PDO has almost doubled between 2012 and 2018 (from 4,291 to 8,480).⁶³⁶ The Public Defender has also conducted proactive investigations of multiple high-profile cases, including:

632 Law on Public Defender, Chapters 3, 3¹.

633 Ibid., Articles 3, 3(3), 12, 13, 15 17.

634 Ibid., Articles 18, 21.

635 Public Defender's Office, *Guide*, <http://ombudsman.ge/eng/gzamkvlevi>

636 Public Defender's Office, *Performance Report of the Public Defender of Georgian (2012-2017)*, 6 December 2017, p. 13, (in Georgian), <http://ombudsman.ge/res/docs/2019041316073396284.pdf>

- Possible misuse of force during a December 2017 antiterrorist special operation which resulted in a suspect's killing.⁶³⁷
- Alleged mishandling by the Prosecutor's Office of the investigation of a 2017 murder of two teenagers in Tbilisi.⁶³⁸
- Alleged excessive use of force by riot police during the dispersal of a rally outside the Parliament building in Tbilisi in June 2020.⁶³⁹

Although most of the public institutions and officials have complied with the legal provisions which require them to facilitate the Public Defender's investigation, there have been some notable exceptions. The Public Defender has noted lack of cooperation from the State Security Service and the Ministry of Justice in some cases, while also highlighting instances when public bodies did not provide information requested by the PDO.⁶⁴⁰

The public perception of the Public Defender is generally positive. In a 2017 survey, 67 per cent of the respondents said that they fully, mostly or partially trust the Public Defender.⁶⁴¹

ROLE: PROMOTING GOOD PRACTICE (LAW AND PRACTICE)

Score: 50

To what extent is the ombudsman active and effective in raising awareness within government and the public about standards of ethical behavior?

The Public Defender has substantial legal powers to promote good practice and has issued a large number of recommendations in recent years. However, the relevant institutions often fail to comply with these recommendations.

Under the law, the Public Defender's jurisdiction extends to all government bodies and officials (both central and local) and public institutions operating on Georgian territory.⁶⁴² The Public Defender has a number of legal powers and obligations concerning promotion of good practice. For example, the Public Defender can submit recommendations and proposals regarding the legislation in the field of human rights to the Parliament. The Public Defender can submit proposals to state bodies regarding disciplinary or administrative action against persons who have violated human rights and freedoms.⁶⁴³ State bodies and officials that receive recommendations or proposals from the Public Defender are required to discuss them and notify the Public Defender about the results of the discussion within 20 days.⁶⁴⁴ The Pub-

637 Public Defender's Office, *Public Defender Responds to the Death of Temirlan Machalikashvili*, 10 January 2018, (in Georgian), <http://bit.ly/385shNd>

638 Public Defender's Office, *Public Defender Responds to Case of Murder on Khorava Street*, 31 May 2018, <http://bit.ly/2FJU1ur>

639 Public Defender's Office, *Public Defender of Georgia Responds to the Events Developed on Rustaveli Avenue on June 20-21*, 21 June 2019, <http://bit.ly/2TIPxCm>

640 Public Defender's Office, *Performance Report of the Public Defender of Georgian (2012-2017)*, 6 December 2017, p. 17-24, (in Georgian), <http://ombudsman.ge/res/docs/2019041316073396284.pdf>

641 Caucasus Research Resource Centre, *Public Attitudes in Georgia*, results of the December 2017 survey, <https://caucasusbarometer.org/ge/cb2017ge/TRUOMB/>

642 Law on Public Defender, Articles 3, 23.

643 Ibid., Article 21.

644 Ibid., Article 24.

lic Defender's legal responsibilities include educational activities in the field of human rights and freedoms.⁶⁴⁵

In practice, the Public Defender promotes good practice primarily through recommendations. According to the Public Defender's most recent report to the Parliament, despite some positive examples and the fact that 235 of the 344 recommendations presented in the Public Defender's 2017 report were endorsed by the legislature through a resolution, the overall situation in terms of compliance with systemic/substantial recommendations "is unsatisfactory" and they often remain unimplemented for years.⁶⁴⁶

In addition to presenting recommendations to the Parliament, the Public Defender presented Amicus Curiae opinions to courts on 11 occasions in 2018, while also publishing 11 special reports, and submitting two appeals to the Constitutional Court.⁶⁴⁷ A total of 74 special reports were prepared between 2012 and 2017. The PDO also conducted 56 training sessions for 1,174 individuals on equality issues from 2015 to 2017.⁶⁴⁸

645 Ibid., Article 3.

646 Public Defender's Office, *The Situation of Human Rights and Freedoms in Georgia*, 2018 Annual Report, Tbilisi, p. 19, <http://www.ombudsman.ge/res/docs/2019101108583612469.pdf>

647 Ibid., p. 13.

648 Public Defender's Office, *Performance Report of the Public Defender of Georgian (2012-2017)*, 6 December 2017, (in Georgian), <http://ombudsman.ge/res/docs/2019041316073396284.pdf>

STATE AUDIT OFFICE

The State Audit Office is a transparent institution which works actively to review the spending of public funds. However, public agencies frequently fail to implement the State Audit Office's recommendations. Also, the State Audit Office's monitoring of political party finance is ineffective, especially during electoral campaigns.

State Audit Office Final score: 73.5			
Dimension	Indicator	Law	Practice
Capacity: 66.6	Resources		50
	Independence	100	50
Governance: 95.8	Transparency	75	100
	Accountability	100	100
	Integrity	100	100
Role: 58.3	Effective financial audits	75	
	Detecting and sanctioning misbehaviour	50	
	Improving financial management	50	
Law and practice average scores		78.5	71.8

STRUCTURE AND ORGANISATION

To promote effective public management and accountability, the State Audit Office (SAO) oversees how budgetary funds and other public resources are used. It is also authorized to inspect the activities of other public bodies tasked with financial and administrative control and to present proposals for improving tax legislation to the Parliament.

The SAO is managed by the Auditor General, who is elected for a term of five years by the majority of the full composition of the Parliament upon the nomination from the Chairperson of the Parliament. Likewise, the majority of the full composition of the Parliament can dismiss the Auditor General through impeachment.⁶⁴⁹

The State Audit Office is an independent body. It is accountable to the Parliament and, at the same time, it also ensures the control of public funds by the Parliament.⁶⁵⁰

⁶⁴⁹ Rules of Procedure of the Parliament of Georgia, Article 180.

⁶⁵⁰ Constitution of Georgia, Article 69.

RESOURCES (LAW AND PRACTICE)

Score: 50

To what extent does the supreme audit institution have adequate resources to achieve its goals in practice?

The SAO is largely equipped with the necessary resources for accomplishing its goals. The agency's budget has been increasing from one year to another. The primary capacity-related difficulty the SAO faces concerns its human resources, which poses a challenge when it comes to the monitoring of the finances of political parties.

The SAO receives its funding from the state budget of Georgia. The budget of the SAO within the amount envisaged in the line item of the economic classification of expenditures cannot be smaller than the corresponding amount of the previous year.⁶⁵¹ The reduction in total appropriations relative to the preceding year is allowed only with the consent of the SAO itself.⁶⁵²

The Auditor General submits to the Parliament the proposed budget for the coming year. In turn, the Parliament, after it has approved the proposed draft, submits it to the Government of Georgia.⁶⁵³ The budgeting procedure is determined by the Parliament's Rules of Procedure.⁶⁵⁴

The Organic Law on State Audit Office provides a number of social security guarantees for the staff of the SAO. These include an entitlement to health insurance, compensation for occupational injuries, financial support to the families of the Auditor General and Deputy Auditor General in the case of their death and so on.⁶⁵⁵

The legal requirement not to reduce SAO's budget without its consent is being followed in practice.⁶⁵⁶ In 2019, its budget amounted to 15.8 million GEL – an increase of approximately 2.8 million GEL since 2015.⁶⁵⁷

The SAO is largely equipped with the resources needed for carrying out its functions.⁶⁵⁸ Yet, the agency struggles to retain qualified employees. In an interview with Transparency International Georgia, SAO's representative said it is difficult to attract and retain qualified personnel due to limited resources the agency has available for salaries.⁶⁵⁹

The SAO staff have an opportunity to seek and receive specialized trainings in various areas relevant to their work from time to time.^{660,661}

One of the core functions of the SAO is to monitor financial activities of citizens' political unions – political parties. After the 2018 presidential election, the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) concluded in its final election monitoring report that the SAO does not have the sufficient human resources to fulfil this role. Due to insufficient capacity, its work is limited to

651 Organic Law on State Audit Office, Article 34.

652 Ibid.

653 Ibid.

654 Ibid.

655 Ibid.

656 State Audit Office website, *Budget of the State Audit Office*, (in Georgian), <http://bit.ly/2TLQxA5>

657 Ibid.

658 Interview with Giorgi Kapanadze, Head of Performance Audit Department at the State Audit Office, 31 July 2019.

659 Ibid.

660 Interview with Lasha Tordia, Auditor General (2012-2017), 24 July 2019.

661 Interview with Giorgi Kapanadze.

following up on media reports concerning the problematic cases raised by the civil society organizations or political parties.⁶⁶²

INDEPENDENCE (LAW)

Score: 100

To what extent is there formal operational independence of the supreme audit institution?

The legal setup provides for the independence of the SAO. Relevant provisions are enshrined in the Constitution and the Organic Law on State Audit Office.

The Constitution guarantees the autonomy of the SAO.⁶⁶³ It is independent in its finances, functioning and organizational affairs.⁶⁶⁴

The SAO is governed only by the law. It is prohibited to interfere and/or to control its actions, or to request accounts related to its work unless expressly stated by the law. Any kind of political pressure as well as other actions that may infringe upon SAO's independence are prohibited.⁶⁶⁵

Under the law, independence of the Auditor General must be guaranteed. No one is authorized to influence their decision-making.⁶⁶⁶ Relevant state agencies must ensure personal safety of the Auditor General according to set rules.⁶⁶⁷

Unless a consent is granted by the Parliament, it is prohibited to bring criminal charges against the Auditor General; to detain or to arrest them; to search their vehicle, work premises or personal belongings. This doesn't apply if the Auditor General has been caught in the act, in which case the Parliament must be notified immediately. Nevertheless, should the Parliament not grant a consent within 48 hours, the Auditor General is to be immediately released from custody.⁶⁶⁸

Only the Parliament has the power to dismiss the Auditor General. To do so, the majority of the full composition of the Parliament must vote to impeach them.⁶⁶⁹

INDEPENDENCE (PRACTICE)

Score: 50

To what extent is the supreme audit institution free from external interference in the performance of its work in practice?

Although the law provides strong safeguards for SAO's independence, these are not always realized in practice.

662 OSCE/ODIHR, *Georgia, Presidential Election, 28 October and 28 November 2018: Final Report*, 28 February 2019 <https://www.osce.org/odihr/elections/georgia/412724>

663 Constitution of Georgia, Article 69.

664 Organic Law on State Audit Office, Article 3.

665 Ibid.

666 Ibid., Article 9.

667 Ibid.

668 Ibid.

669 Rules of Procedure of the Parliament of Georgia, Article 180.

The autonomy of the SAO recently came under threat during one of the most high-profile case of Lasha Tordia. Tordia, who was serving as the Auditor General at the time, stated on 13 May 2017 that he was physically attacked by Otar Partskhaladze, former Chief Prosecutor, and his security guards.⁶⁷⁰ Tordia explained that Partskhaladze had expressed anger over SAO taking interest in Tbilisi City Hall's decision to grant ownership of a land plot to a company owned by Partskhaladze (the SAO published an interim report covering this matter on 22 May). Partskhaladze denied any wrongdoing. The Ministry of Internal Affairs (MIA) launched an investigation into alleged assault, pursuant to Article 126 of the Criminal Code of Georgia. On 22 May, the MIA published video footage from the night of the conflict between Partskhaladze and Tordia. Despite this evidence, the law enforcement agencies did not react until after the first round of the 2018 presidential election in November, when the former Chief Prosecutor was finally charged and released on 5,000 GEL bail after the court hearing held under suspicious circumstances – with no prior announcement and late at night.⁶⁷¹ Charges brought against Partskhaladze concerned only physical assault. The group defending Tordia's interests demands that Partskhaladze be charged with a different offense and for the assault of a public official.⁶⁷²

The attack on the Auditor General along with the lack of law enforcement action sent as a negative signal to the staff of the SAO, as this case illustrates that they may not be protected when confronting influential individuals.⁶⁷³ This was also the first blow to SAO's reputation. According to the agency's representative interviewed for this study, the staff's interactions with public agencies were uncomfortable and awkward in the aftermath of the incident.⁶⁷⁴

Beyond this case, there have been no public reports concerning external interference in the work of the SAO. A SAO representative told Transparency International Georgia that the staff do not feel there is meddling in their routine work.⁶⁷⁵ Lasha Tordia himself said that his case demonstrated that, at the time, the SAO was capable of delivering critical reports implicating influential individuals; however, it also showed that the state has failed to defend the SAO, which may adversely impact its independence in the future.⁶⁷⁶

TRANSPARENCY (LAW)

Score: 75

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the supreme audit institution?

Georgian legislation includes certain provisions to ensure the transparency of the work of the SAO. Nevertheless, there are some ambiguities concerning the specific responsibilities of the agency in this regard.

According to the Organic Law on State Audit Office, the agency is not required to publish its audit reports. Instead, the law says that the agency is “authorized” to publish these.⁶⁷⁷

⁶⁷⁰ Civil.ge, *Georgia's State Audit Office Chairman Assaulted*, 15 May 2017, <https://civil.ge/archives/126398>

⁶⁷¹ Civil.ge, *Prosecution Charges Former Chief Prosecutor*, 6 November 2018, <https://civil.ge/archives/263989>

⁶⁷² Ibid.

⁶⁷³ Interview with Lasha Tordia, Auditor General (2012-2017), 24 July 2019.

⁶⁷⁴ Interview with Giorgi Kapanadze, Head of Performance Audit Department at the State Audit Office, 31 July 2019.

⁶⁷⁵ Ibid.

⁶⁷⁶ Interview with Lasha Tordia.

⁶⁷⁷ Organic Law on State Audit Office, Article 25.

Nevertheless, a 7 February 2018 order of the Auditor General⁶⁷⁸ establishes the rules for proactive disclosure of public information and the rules for requesting public information online. This document lists the types of information that the SAO is required to publish and the departmental units responsible for ensuring that information is published. The act also states how frequently various types of public information must be updated. The order provides that it should be possible to download, copy and print public information without modifications and alterations.

The SAO has assigned staff members responsible for public disclosure and responding to freedom of information requests.⁶⁷⁹ Their contact information is publicly available on the agency's website. Further, the principles of public access to information as determined by the General Administrative Code of Georgia also apply to the SAO.⁶⁸⁰

TRANSPARENCY (PRACTICE)

Score: 100

To what extent is there transparency in the activities and decisions of the supreme audit institution in practice?

Although the legislation creates ambiguities concerning its public disclosure obligations, the SAO is a transparent institution in practice.

In May 2018, the SAO received an award for ensuring access to public information from a civil society group Institute for Development of Freedom of Information⁶⁸¹ for the fourth time.

The SAO publishes its annual work plans⁶⁸² which allows the public to view the activities the agency has planned for the coming year. The SAO website also contains its annual reports submitted to the Parliament, which list all major activities of the agency in a given year.⁶⁸³

The SAO actively publishes updates about its work through the website. The website provides access to the performance, compliance and financial audit reports of various public agencies.⁶⁸⁴ Information is structured according to the types of audits conducted.

The SAO also publishes statistics concerning the violations and sanctions resulting from the financial monitoring of political parties.⁶⁸⁵

678 State Audit Office, *Order of the Auditor General on Determining Rules for the Proactive Publication of Information and Approving a Standard for Requesting Public Information through Electronic Means*, 7 February 2018. Accessible at (in Georgian):

https://sao.ge/files/proaqtiuli/sajaro/sajaro_informaciis_gamoqveyneba.pdf

679 State Audit Office, *Decree of Auditor General on Ensuring Accessibility of Public Information and Determining Civil Servants Responsible for Proactive Disclosure of Information*, 22 March 2019. Accessible at (in Georgian):

https://sao.ge/files/proaqtiuli/sajaro/sajaro_informaciis_gamoqveyneba.pdf

680 General Administrative Code.

681 State Audit Office, *State Audit Office was Awarded for the Accessibility of Public Information*, 3 May 2019, <https://sao.ge/en/news/1069>

682 State Audit Office, *Audit Planning Process*, (in Georgian): <https://sao.ge/audit/audit-planning-process>

683 Ibid.

684 State Audit Office, *State Audit Office was Awarded for the Accessibility of Public Information*, 3 May 2019, <https://sao.ge/en/news/1069>

685 Ibid.

The SAO publishes data on its revenues and spending. Information on how it fulfils the obligations foreseen by the budget is provided on a quarterly basis.⁶⁸⁶

ACCOUNTABILITY (LAW)

Score: 100

To what extent are there provisions in place to ensure that the supreme audit institution has to report and be answerable for its actions?

The SAO is accountable to the Parliament. In addition to reporting on its own activities, the SAO is also required to submit to the Parliament a statement examining the report provided by the Government of Georgia.

The SAO addresses the Parliament concerning the Government's report twice a year – once following up on the interim report concerning the execution of the state budget and once again when the final report is presented. The SAO provides a report on its own activities once a year.⁶⁸⁷ Biannually, the SAO also submits to the Parliament a report on the audits of the self-governing entities which examine how they spend and execute their budgets.⁶⁸⁸

Following international standards and practice, an external auditor – a company selected by the Parliament – conducts SAO's financial audits every year.⁶⁸⁹

The Auditor General is authorized, and required in case requested, to attend the Parliament's plenary sessions, committee hearings, parliamentary faction hearings and/or the investigative or other temporary commission hearings. The Parliament, a parliamentary committee, a parliamentary faction and/or the investigative or other temporary commission must also make the necessary arrangements to give floor to the Auditor General, if requested.⁶⁹⁰ Same rule applies to any of the deputies of the Auditor General.

ACCOUNTABILITY (PRACTICE)

Score: 100

To what extent does the supreme audit institution have to report and be answerable for its actions in practice?

Overall, the SAO is accountable for its activities in practice. The agency follows its accountability requirements towards the Parliament and its financial accounts receive positive assessments from external auditors.

The SAO, in compliance with the legislation, presents its annual reports to the Parliament, which are simultaneously also published to the agency's website. The reports are rather substantive and contain information on key audit results, on the extent to which the audited agency has been implementing SAO's recommendations as well as whether the law enforcement agencies have been contacted.⁶⁹¹

686 Ibid.

687 Organic Law on State Audit Office, Article 31.

688 Ibid.

689 Ibid, Article 34.

690 Ibid, Article 10.

691 State Audit Office, *Annual Performance Reports*,
<https://sao.ge/en/about-us/annual-performance-report>

It is commendable that the SAO has also published its four-year strategy with key priorities and objectives the agency plans to pursue in the period of 2018-2022.⁶⁹²

As foreseen by the law, the SAO is audited by an external audit firm every year and these result into positive assessment. Deloitte, who audited SAO's finances for 2018, found that the agency prepared consolidated financial reporting in compliance with all key aspects and that it followed the accounting and financial reporting guidelines #429 adopted by the Ministry of Finances.⁶⁹³

INTEGRITY (LAW)

Score: 100

To what extent are there mechanisms in place to ensure the integrity of the supreme audit institution?

There are strong mechanisms to ensure integrity of the SAO, and these are largely enshrined in the Code of Ethics of Auditors of the SAO.⁶⁹⁴

The Code of Ethics contains provisions regarding the principles to be followed by all staff of the SAO such as honesty, independence and objectivity, political neutrality, absence of conflicts of interest, the duty of confidentiality and so on.⁶⁹⁵

An auditor is required to be driven by a sense of justice and to perform their duties with integrity and uprightness. An auditor is required to act honestly in their work as well as in their private life; they must avoid acting in a way that may threaten their own or SAO's reputation.⁶⁹⁶

An auditor is required to perform their duties independently and impartially. They may not be influenced by public opinion or other factors that may prevent them from duly fulfilling their tasks.⁶⁹⁷

An auditor is required to remain politically neutral. They are prohibited from joining a political party or taking part in political processes in any other way. An auditor must refrain from any such action that may cast doubt on their objectivity and independence or harm SAO's reputation as a politically neutral organization.⁶⁹⁸

An auditor must follow the requirements set by the Law of Georgia on Conflict of Interest and Corruption in Public Service as well as follow the general rules of conduct in the case of a conflict of interests and/or corruption as provided by the Law of Georgia on Public Service.⁶⁹⁹ An auditor must notify their immediate supervisor in the case of any existing or potential conflicts of interests. An auditor must also refrain from engagements and interactions that give rise to corruption risks.⁷⁰⁰

692 State Audit Office, *Development Strategy 2018-2022*, <https://sao.ge/en/about-us/policy-and-strategy>

693 State Audit Office, *2018 Annual Report*, p. 79, (in Georgian), <http://bit.ly/2GiHyOV>

694 State Audit Office, *Order #65/37 of the Auditor General of the State Audit Office*, 4 April 2014, (in Georgian), <https://matsne.gov.ge/ka/document/view/1889279>

695 Ibid., Article 3.

696 Ibid., Article 4.

697 Ibid., Article 5.

698 Ibid., Article 6.

699 Ibid., Article 7.

700 Ibid.

An auditor is obligated to protect professional secrets and may not spread privileged information that became known to them on the job, apart from instances when doing so is allowed by law. Furthermore, the auditor is prohibited from using information obtained on the job for personal purposes.⁷⁰¹

INTEGRITY (PRACTICE)

Score: 100

To what extent is the integrity of the supreme audit institution ensured in practice?

The SAO, as far as it is publicly known, performs its work with integrity.

During an interview with Transparency International Georgia, the representative of the SAO remarked that the current Code of Conduct of Auditors is being followed in practice. There have been cases where the most severe measure envisaged by the Code of Conduct – dismissal from work – has been applied when a staff member failed to comply with the rules for civil servants' behaviour. However, it is unknown what kind of violations these were.⁷⁰²

It must also be noted that there have not been any publicly known cases that may have pointed to a lack of integrity among the SAO staff in recent years.

ROLE: EFFECTIVE FINANCIAL AUDITS (LAW AND PRACTICE)

Score: 75

To what extent does the audit institution provide effective audits of public expenditure?

It is one of the core tasks of the SAO to ensure that public funds are managed effectively. In its monitoring, the SAO relies on three types of audits: financial audits, performance audits and compliance audits.⁷⁰³

A financial audit entails tasks such as an inspection of accounts, financial records and statements of a public agency; an examination of whether the audited agency has been complying with legally prescribed rules and financial systems; an investigation of its internal controls and the internal audit function.⁷⁰⁴

The SAO regularly conducts financial audits of various public agencies and elaborates findings concerning their compliance with the law.

The SAO has audited virtually all ministries and agencies under their purview. These reports are publicly available through the SAO website where they are sorted by year.⁷⁰⁵

701 Ibid., Article 8.

702 Interview with Giorgi Kapanadze, Head of Performance Audit Department at the State Audit Office, 31 July 2019.

703 Organic Law on State Audit Office.

704 Ibid.

705 State Audit Office, *Audit Reports*, <https://sao.ge/en/audit/audit-reports>

ROLE: DETECTING AND SANCTIONING MISBEHAVIOUR (LAW AND PRACTICE)

Score: 50

Does the supreme audit institution detect and investigate misbehaviour of public officeholders?

The SAO has various instruments to detect misbehaviour and violations. As far as sanctions go, the SAO only has such authority in the case of the violations concerning the financing of political parties.

The SAO is responsible for the monitoring of the financial activities of political unions of citizens – political parties. The SAO is authorized to audit, freeze property of physical or legal entities, including parties themselves and including their bank accounts, report violations and adopt resolutions.⁷⁰⁶ In 2018, the SAO forwarded 33 audit reports to the law enforcement authorities.⁷⁰⁷

An electoral subject is required to present to the SAO their bank account information from which the campaign expenses will be covered.⁷⁰⁸

If the subject fails to provide information and/or documentation required by the SAO, supplies false information, interferes in or otherwise impedes SAO's work, they will be fined in amount of 1,000 GEL.⁷⁰⁹

The SAO is authorized to conduct ad-hoc financial or compliance audits upon request from the Parliament or the temporary parliamentary investigative commission.⁷¹⁰

The SAO does not utilize the measures provided by the legislation to the full extent. There is a dedicated website where updates from the Department of Political Finance Monitoring of the SAO are published, including updates to the register of violations. The information shared by the SAO demonstrates that sanctions are scarce.⁷¹¹

The SAO was ineffective in this regard during the electoral campaign periods preceding both the first and second rounds of the 2018 presidential election. The agency was passive in responding to the allegations of violations of political party finance rules. The process for examining the cases was rather protracted, with no visible results. Only on 26 November did the SAO publish a brief report that provided information on the counts of cases the agency followed up on, raising questions concerning impartiality of the SAO.⁷¹²

706 Organic Law on State Audit Office, Article 6.

707 State Audit Office, *2018 Annual Report*, p. 77, (in Georgian), <http://bit.ly/2GiHyOV>

708 State Audit Office, *Order #2915/21 of the Auditor General of the State Audit Office on Resolving Certain Issues Related to the Transparency of Political Finances*, 5 May 2016.

709 Organic Law on State Audit Office, Article 26.

710 Ibid., Article 18.

711 State Audit Office, Department of Political Finance Monitoring, Register of Violations, (in Georgian), <https://monitoring.sao.ge/registry-of-offenders>

712 Transparency International Georgia, *Misuse of Administrative Resources during Georgia's 2018 Presidential Elections*, 10 January 2019, <http://bit.ly/2slUOij>

ROLE: IMPROVING FINANCIAL MANAGEMENT (LAW AND PRACTICE)

Score: 50

To what extent is the supreme state institution effective in improving the financial management of government?

Contributing to the improvements the financial management is one of the declared goals of the SAO.⁷¹³ The agency is equipped with legislative guarantees to ensure this. To an extent, the SAO fulfils this role in practice as well.

Along with identifying violations and flaws, to prevent systemic failures, the SAO is authorized to provide recommendations to an audited entity. The audit report and recommendations are presented to the agency in question or its supervisory body to which the agency is accountable.⁷¹⁴

Recommendations may concern issues such as: (i) economic utilization of budgetary coffers; (ii) improvements in compiling and managing state property inventories; (iii) improvements in internal control systems of public agencies; (iv) implementation of anti-corruption policies; (v) prevention of inefficient spending and so on.⁷¹⁵

The SAO must be notified on the measures undertaken in response to the recommendations in a month's time, unless a different term is given by the SAO.⁷¹⁶

The rate of implementation of the SAO's recommendations is not very high. According to its annual report, the share of recommendations taken up by audited agencies increased from 43 to 60 per cent in the period of 2015-2017. Still, it is the SAO's objective to achieve a higher success rate. The SAO has started working on a concept for an electronic system to track progress, with the aims to ensure proactive communication with audited agencies, automatization of processes and a more effective monitoring mechanism.⁷¹⁷

The SAO also provides recommendations concerning the draft state budgets – some of which the Ministry of Finance takes on board and modifies the state budget accordingly.⁷¹⁸

713 Organic Law on State Audit Office, Article 4.

714 Ibid., Article 34.

715 State Audit Office, Frequently Asked Questions: "2. How does the SAO fulfill its function as an advisor and what role does it play in improving public administration?", (in Georgian), <https://sao.ge/faq#>

716 Organic Law on State Audit Office, Article 4.

717 State Audit Office, 2018 Annual Report, p. 35, (in Georgian), <http://bit.ly/2GiHyOV>

718 State Audit Office, Reports on the 2019 State Budget Execution, (in Georgian), <http://bit.ly/36docoG>

POLITICAL PARTIES

Georgian legislation ensures that establishment and registration of **political parties** is simple. However, major inequality between the ruling party and the opposition parties in terms of resources reduces political competition. Instances of violence against the members and activists of opposition parties are often not addressed effectively, while the law enforcement agencies and the courts sometimes apply the law selectively against the representatives of opposition parties. The financing of political parties is largely transparent in practice, but ruling party's accountability is not ensured: There is often no effective response to the possible violations of the financing rules. Internal democratic governance procedures of the parties are weak and so is their link with the broader public.

Political Parties Final score: 56.2			
Dimension	Indicator	Law	Practice
Capacity: 68.7	Resources	100	25
	Independence	100	50
Governance: 62.5	Transparency	100	75
	Accountability	75	50
	Integrity	50	25
Role: 37.5	Interest aggregation and representation		25
	Anti-corruption commitment		50
Law and practice average scores		85	42.8

STRUCTURE AND ORGANISATION

There are 244 political parties registered in Georgia.⁷¹⁹ Few of them, however, are actually functioning. The number of qualified election entities⁷²⁰ is 19. Currently, five parties have their own factions in the Georgian Parliament.

⁷¹⁹ National Agency of Public Registry, Political Party Registry - <https://napr.gov.ge/p/477>

⁷²⁰ Electoral Code of Georgia, Article 2 (t¹): *Qualified party – a party which, in accordance with Article 30 of the Organic Law of Georgia on Political Associations of Citizens, receives funding from the state budget.*

RESOURCES (LAW)

Score: 100

To what extent does the legal framework provide a conducive environment for the formation and operations of political parties?

The legislation in Georgia does not contain any provisions impeding the formation and operation of political parties except for the cases where a party's declared goals are directed against the constitutional order.

Citizens of Georgia have a constitutional right to create political parties and participate in their activities.⁷²¹ The Organic Law of Georgia on Political Associations of Citizens stipulates basic principles of the formation and activities of parties and concrete rules of their operation.⁷²² The staff and personnel of the Georgian Armed Forces, Security Service, Prosecutor's Office, Ministry of Internal Affairs and the Investigation Service of the Ministry of Finance do not have the right to be members of political parties.⁷²³

To create a political party, an assembly of at least 300 citizens is required which adopts party statutes.⁷²⁴ The party founders, within one week from holding the assembly, must apply for registration to the National Agency of Public Registry and submit certain documents, including a list of at least 1,000 members.⁷²⁵

The National Agency of Public Registry has the right to refuse registration to a political party if the documents it submits are not in line with the requirements of the law on political parties or the Constitution. In the event of the rejection of registration, the Agency is under the obligation to inform the applicant in writing about the rejection decision and provide explanation of the rejection. If the Public Registry does not notify the applicant about the rejection in writing and within the timeframe established by the law and, at the same time, if the documents submitted by the applicant meet legal requirements, a party is automatically considered registered. The applicant can appeal against the ministry's rejection in court.⁷²⁶

The Law on Political Associations of Citizens stipulates several restrictions with regard to the formation of a political party in exceptional cases. Specifically, the formation and operation of a party is not permitted if its goal is to bring down or overthrow, using violent means, the constitutional order of Georgia, infringe upon the independence of the country, violate its territorial integrity, or if it engages in the propaganda of war or violence, incites, ethnic, tribal, religious or social hatred. The creation of a party based on regional or territorial belonging is also prohibited.⁷²⁷

RESOURCES (PRACTICE)

Score: 25

To what extent do the financial resources available to political parties allow for effective political competition?

721 Constitution of Georgia, Article 23.

722 Law on Political Associations of Citizens.

723 Ibid., Article 10.

724 Ibid., Article 12.

725 Ibid., Article 22.

726 Ibid., Article 23.

727 Ibid., Articles 5 and 6.

Despite the fact that, at the level of the law, the ruling and the opposition parties have equal opportunities to access financial resources, the reality is radically different. Usually, donations to the ruling party exceed the financial resources of all political parties many times over. In parallel, opposition parties have virtually no access to private funding, including donations by big companies and their representatives, so state funding is the most significant source of their financing. Correspondingly, in this context, effective political competition is not ensured.

The law determines the structure of a political party's assets. These include membership fees, donations and, in relevant cases, state funding and bank loans. Parties are not allowed to receive funding from foreign physical and legal persons, international organisations and movements and state agencies, state institutions, legal entities of public law (LEPLs), associations in which state is a shareholder except for cases envisaged by this law.⁷²⁸

The total amount of donations received from each citizen must not exceed GEL 60,000 per year while the total amount of donations received from each legal entity must not exceed GEL 120,000. The annual membership fee paid by each member must not exceed GEL 1,200.⁷²⁹

The state funding of party election campaigns is regulated by the Georgian electoral legislation.⁷³⁰ The amount allocated for party funding in the Georgian state budget is directly received by a political party registered with the Central Election Commission of Georgia which: participated in elections independently or as part of an election bloc, if, during the most recent parliamentary or general local self-government elections, this party or the corresponding election bloc received 3 percent or more votes of the voters who voted in the elections. Also, if a party independently or as part of an election bloc, participated in the latest parliamentary election and if a Member of Parliament was elected from a single-seat district upon nomination by this party or the corresponding election bloc and this party is represented by a faction in the Parliament of Georgia. The basic annual amount of funding is GEL 300,000; additional amounts are calculated using formulas determined by the law.⁷³¹ In addition, apart from the funding from the state budget, there is an amount transferred annually from the Georgian state budget into a fund which aims to develop parties and the non-governmental sector and facilitate the establishment of a healthy, competitive political system.⁷³²

The elections held in the recent period are a good indicator of funding for political parties while the donations received by parties paint a relatively accurate picture of the actual financial resources available to political parties and of the balance between the state funding and private donations.

The distribution of the income received by political parties during the 2016 parliamentary elections was as follows: ⁷³³

728 Ibid., Article 26.

729 Ibid., Article 27.

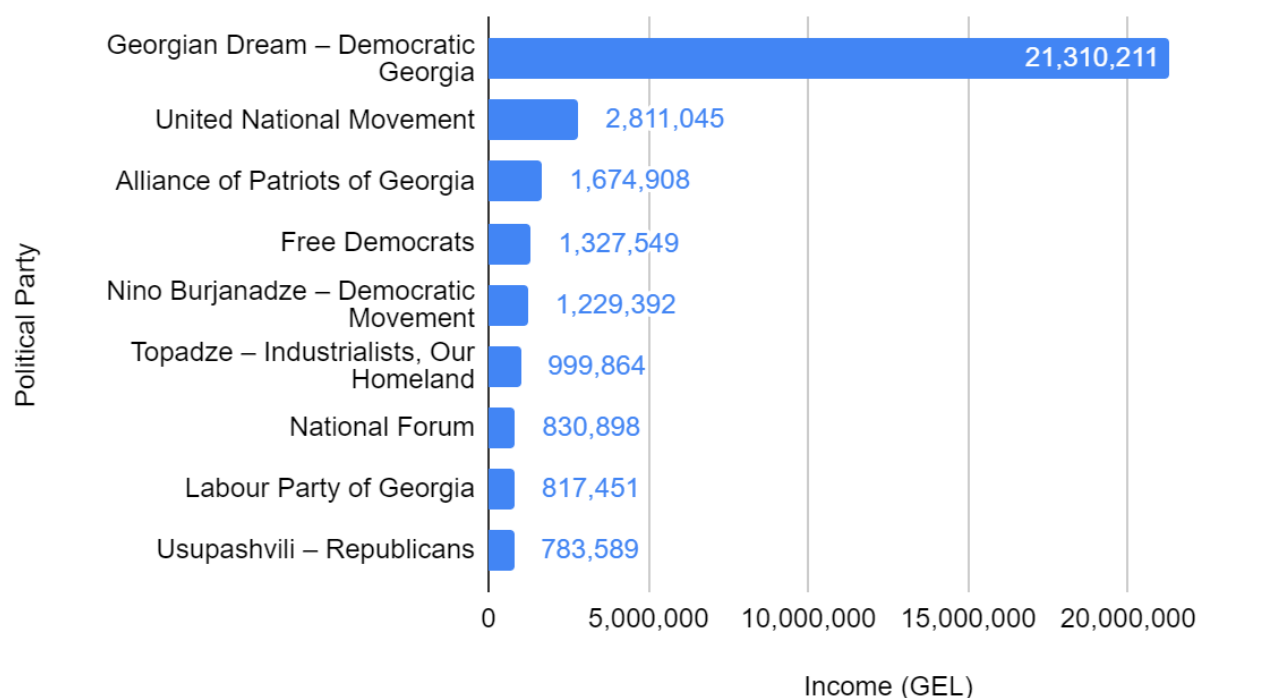
730 Ibid., Article 29.

731 Ibid., Article 30.

732 Ibid., Article 30¹.

733 Transparency International Georgia, *Election Campaign Finances in Georgia: 2016 Parliamentary Elections*, February 2017, p. 17, <http://bit.ly/2Rdlx98>

Figure 1. Total Income of Election Entities during Campaign



Thus, the income received by Georgian Dream was seven times as high as that of the United National Movement (UNM) which came in second and nearly twice as high as the income of all other qualified parties combined. Such a big difference between the incomes of political parties has not been recorded since 2010.⁷³⁴

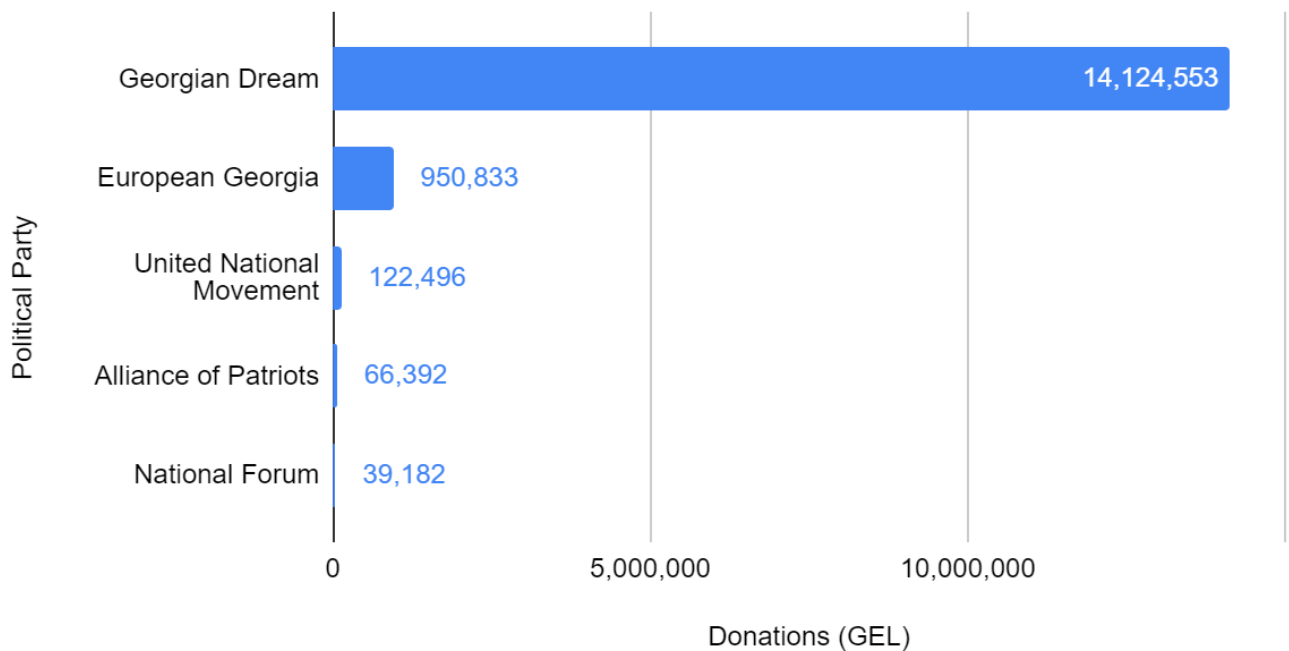
In addition, during the 2016 parliamentary elections, the largest share of income for all election entities except for Georgian Dream and Alliance of Patriots of Georgia, came from the state budget. It is also striking that the disparity of Georgian Dream's income stemmed from a large number of private donations – the ruling party left competitors far behind in this respect.⁷³⁵

The same trend continued during the 2017 local self-government elections.

⁷³⁴ Ibid.

⁷³⁵ Transparency International Georgia, *Election Campaign Finances in Georgia: 2016 Parliamentary Elections*, February 2017, p. 19, <http://bit.ly/2Rdlx98>

Figure 2. Donations to Political Parties (1 June – 1 November 2017)



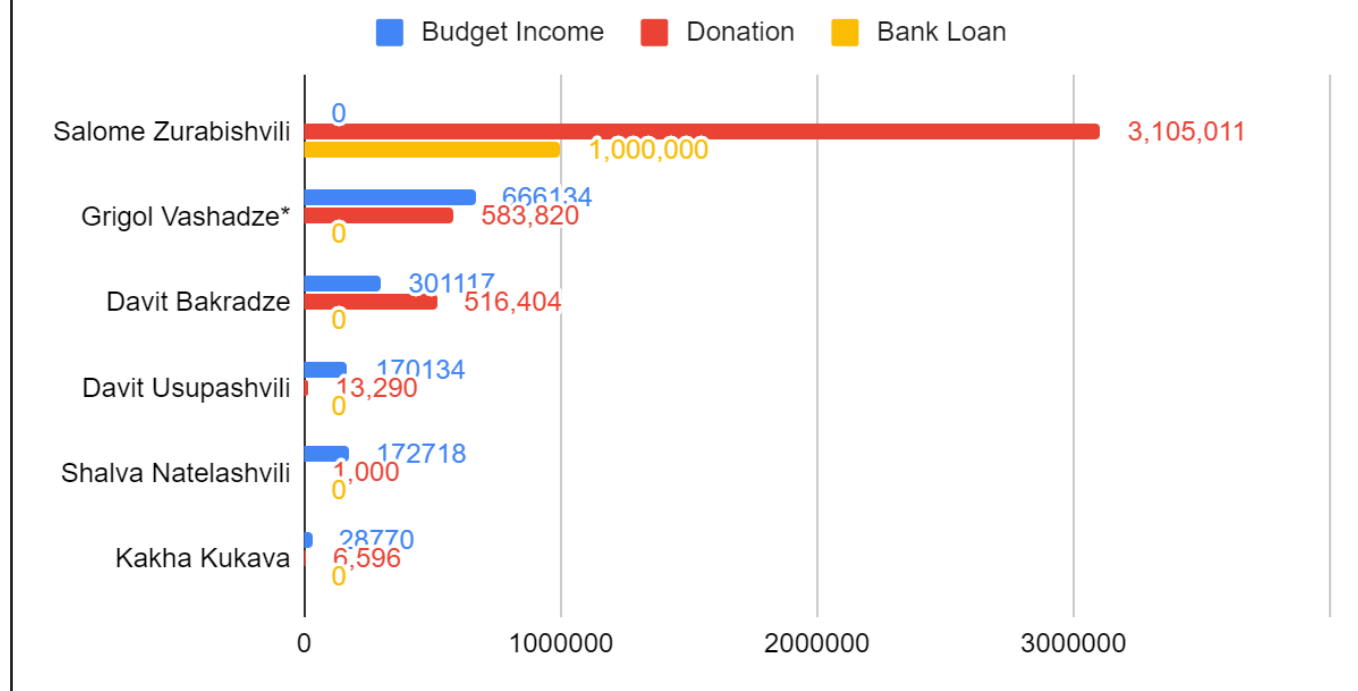
Source: Public Defender's Office, Database of Political Donations - www.monitoring.sao.ge

Georgian Dream received 15 times the amount in donations as European Georgia which occupies the second place and 10 times the amount of all other parties combined.⁷³⁶

During the 2018 presidential election, Georgian Dream did not have its own candidate but officially supported independent presidential candidate Salome Zurbishvili. It is noteworthy that this candidate received the highest share of income among all.

⁷³⁶ Transparency International Georgia, *Who Funds Political Parties in Georgia*, 13 December 2017, p. 6, <https://www.transparency.ge/en/post/who-funds-political-parties-georgia>

Figure 3. Main Income Categories of 2018 Presidential Candidates (GEL)



Source: Financial declarations of election entities.

* Combined incomes of five election entities supporting Grigol Vashadze.

INDEPENDENCE (LAW)

Score: 100

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

The law does not contain any significant shortcomings which would create possibilities for unwarranted external interference in the activities of political parties. According to the law on political parties, the state must ensure that the rights and lawful interests of political parties are protected and state bodies and public officials, as was mentioned in the Resources (Law) section above, are prohibited from interfering in the activities of parties except for cases envisaged by the law.⁷³⁷

The law on political parties contains guarantees which protect parties from arbitrary abolition by the government. According to Article 36, the Constitutional Court of Georgia can ban a party whose goal is to bring down or overthrow, using violent means, the constitutional order of Georgia, infringe upon the independence of the country, violate its territorial integrity, or which engages in the propaganda of war or violence, incites, ethnic, tribal, religious or social hatred, is creating or has created an armed unit.⁷³⁸

⁷³⁷ Law on Political Associations of Citizens, Article 7.

⁷³⁸ Ibid., Article 36.

INDEPENDENCE (PRACTICE)

Score: 50

To what extent are political parties free from unwarranted external interferences in their activities in practice?

There have been no cases of the government dissolving, abolishing or banning political parties. There have, however, been cases of violence against political parties and their supporters.

Among the instances of pressure put on political parties in recent years, of special note is the attack on the opposition National Movement leaders in the village of Kortskheli in the Zugdidi Municipality in May 2016.⁷³⁹

During the 2018 presidential election, election entities were able to freely conduct their campaigns, and fundamental freedoms were generally protected, however, the election observation mission of the OSCE Office for Democratic Institutions and Human Rights recorded several attempts to thwart campaign events, numerous instances of damaging party offices and campaign material and several individual violent incidents.⁷⁴⁰ Political confrontation between political parties grew particularly intense in the run-up to the second round. Georgian Dream and the UNM activists engaged in physical clashes and legal proceedings were instituted regarding these incidents. The UNM and the parties that formed a coalition with it questioned the quality of the investigation as they believed that the government was planning to use a punishment as lenient as possible.⁷⁴¹

According to the Public Defender's report, in the run-up to the first round of the presidential election, investigation into 12 cases was launched prior to the Election Day. Between the first and the second round, criminal proceedings were instituted concerning 34 cases. After the second round and the Election Day – criminal proceedings were instituted concerning 31 cases.⁷⁴²

Criminal proceedings instituted against Nika Melia, one of the leaders of the UNM, and Irakli Okruashvili, leader of the Victorious Georgia party, in relation to the disturbances of 20 June 2019 in Tbilisi created an impression that the law was applied selectively and that opposition politicians were subjected to pressure.⁷⁴³

TRANSPARENCY (LAW)

Score: 100

To what extent are there regulations in place that require parties to make their financial information publicly available?

739 Public Defender's Office, *The Public Defender of Georgia Demands an Adequate Response to the Incident that Took Place in Kortskheli*, 23 May 2016, p. 4, (in Georgian), <http://bit.ly/3853w3z>

740 OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019, p. 4, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

741 Ibid., p. 50.

742 Public Defender's Office, *The Situation in Human Rights and Freedoms in Georgia 2018*, p. 186, <http://bit.ly/2uEyr8n>

743 Transparency International Georgia, *The State Still Has a Selective Approach in the Investigation of the June 20 Events*, 18 October 2019, <http://bit.ly/2Tq2xHj>

The current legislation requires that political parties declare their income and that [this information] be proactively published on the website of the Audit Service.

The mechanisms of monitoring and ensuring the transparency of political party finances are stipulated by the Law on Political Associations of Citizens. The State Audit Office establishes the rules regulating financial situation and donations for the parties covered by this law.

By 1 February of every year, a party is to send to the State Audit Office a financial declaration accompanied by an auditor's (an audit firm's) conclusion. Copies of the declarations and an auditor's (an audit firm's) conclusion are sent to a local revenue office depending on the legal address of a party. The declaration is to reflect a party's annual income (amounts of membership fees and donations, identity of citizens who paid membership fees, data about citizens and legal persons who made donations, funding allocated by the state as well as the funds received from a party's publishing activities and organisation of various events) and expenditures (election expenses, funding various events, remuneration and business trips and other expenditures) as well as an asset report (buildings owned, number and types of transport vehicles, their total value, amounts of money kept in banks). The income received by a political party during an election period and its expenses must be indicated separately in the financial declaration. The Audit Office is under the obligation to provide the data it receives to all interested parties and post this information on its website within five days.⁷⁴⁴

TRANSPARENCY (PRACTICE)

Score: 75

To what extent do political parties make their financial information publicly available?

The financial information of political parties is publicly available, although there are problems with regard to the transparency of donations.

Political parties' declarations can be accessed on the website of the State Audit Office. The information about the donations received by political parties can also be obtained from the same website. This includes information about the amount of a donation, the person/organisation who made the donation and the date when the donation was made.⁷⁴⁵

In terms of the transparency of election campaigns, there is a problem of the parties' using third persons to make donations in order to avoid the existing restrictions. Alleged cases of this kind were identified during the 2018 presidential election.⁷⁴⁶

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there provisions governing financial oversight of political parties?

The law establishes substantial instruments for exercising financial oversight of political parties although the relevant provisions contain multiple shortcomings.

⁷⁴⁴ Law on Political Associations of Citizens, Article 32.

⁷⁴⁵ Public Defender's Office, Database of Political Donations - <https://monitoring.sao.ge/>

⁷⁴⁶ Transparency International Georgia, *Campaign Finances in Georgia's 2018 Presidential Elections Interim Report*, 26 October 2018, p. 4, <http://bit.ly/36RhF4l>

One of the main aspects of accountability of political parties is the oversight of their financial activities. The current Georgian legislation requires that the income and expenditures of political parties be declared and recorded. At the same time, political parties are under the obligation to submit the declarations to the State Audit Office. The State Audit Office checks that a party's financial declaration and campaign fund report are complete, accurate and in compliance with the law. It can audit financial activities of a party once a year, impose sanctions if irregularities are uncovered and contact the Prosecutor's Office in the event there are indications of a crime.⁷⁴⁷

In parallel, the law does not provide for sufficient time to respond to irregularities during electoral periods; furthermore, the law lacks sufficient provisions to regulate loans, it does not regulate requests for funding and reporting for the second round and does not discuss the issues of participation of third parties in campaigns.⁷⁴⁸ The law does not require the State Audit Office to check campaign financing reports or to publish its findings prior to the Election Day, which limits transparency of campaign financing and which has affected voters' ability to make an informed choice.⁷⁴⁹

The existing legal framework is also problematic in terms of the oversight of donations. Specifically, the State Audit Office cannot summon a potential offender for mandatory questioning if it needs to do so. Another problematic issue is whether the qualified entities spend funding received from the budget in a purposeful manner. In addition, the provision concerning donations received by independent candidates is vague.⁷⁵⁰

ACCOUNTABILITY (PRACTICE)

Score: 50

To what extent is there effective financial oversight of political parties in practice?

Despite the existence of mechanisms at the level of the law, accountability of political parties is not properly ensured in practice.

Political parties submit financial reports to the State Audit Service. These reports are published in the internet. Nevertheless, there are significant problems with regard to checking the accuracy of these reports.⁷⁵¹

The relevant department of the State Audit Office has a limited capacity of monitoring regional offices of political parties due to the lack of human resources. This problem is exacerbated by the circumstance that the Audit Office cannot hire non-staff employees during pre-election periods. Correspondingly, due to the lack of time and human resources, the mechanism of oversight of the parties' financial activities is inadequate and rather ineffective in practice.⁷⁵²

747 Law on Political Associations of Citizens, Article 34(1).

748 OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019, p. 24, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

749 Ibid., p. 28.

750 Interview with Zurab Aznaurashvili, Head of the Department of Political Finance Monitoring at the State Audit Office, 14 June 2019.

751 Public Defender's Office, Database of Political Donations - <https://monitoring.sao.ge/>

752 Interview with Zurab Aznaurashvili, Head of the Department of Political Finance Monitoring at the State Audit Office, 14 June 2019.

The same problem was highlighted in the OSCE/ODIHR report on the 2018 presidential election. Specifically, the organisation believes that it would be better if the law envisaged expedited procedures that would allow the State Audit Service to respond to the violations of rules of campaign financing and publish its findings; in addition, it would be preferable if the legislation clearly regulated the State Audit Office's cooperation with other government bodies in order to guarantee timely access to the relevant information.⁷⁵³

The financial oversight practice is problematic with regard to the submission of financial declarations by political parties. For example, a large majority of declarations concerning the 2018 presidential election were incomplete and were not filled out in a uniform manner. Many mandatory fields of the reports were not filled out at all.⁷⁵⁴

INTEGRITY (LAW)

Score: 50

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?

At the level of the law, there are no provisions containing principles of democratic governance of political parties. This area is governed entirely by internal regulations of political parties.

The law states that all parties have an obligation to hold a general assembly of its members at least once every four years. Such assemblies must be attended by either all members of a party or at least 200 representatives elected by party members, which depends on the statutes of each party. The assembly elects party leadership and members of a party's executive and supervisory bodies.⁷⁵⁵

INTEGRITY (PRACTICE)

Score: 25

To what extent is there effective internal democratic governance of political parties in practice?

The internal mechanisms of democratic governance in Georgia's leading political parties are weak.

As mentioned in the previous section, there are no provisions regulating governance of political parties at the legislative level and it depends entirely on the organisational structure of a given political association. There are numerous political parties registered in Georgia but their large majority exists only on paper. Georgian Dream, the United National Movement (UNM), European Georgia and Alliance of Patriots have the largest representation among political parties that exist at this point in both the legislature and the representative bodies of the local self-government. The governance of the parties mentioned above, [the appoint-

753 OSCE ODIHR, *Georgia Presidential Election 2018 - Election Observation Mission Final Report*, 28 February 2019, p. 29, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

754 Transparency International Georgia, *Second Interim Report on Monitoring Campaign Finances and Administrative Resources*, 27 November 2018, p. 23, <http://bit.ly/36VnQnK>

755 Law on Political Associations of Citizens, Article 17.

ment of] their management and staffing of their internal bodies are defined by these parties' statutes while party leaders are elected at assemblies, based on internal institutional organisation.^{756 757 758 759}

Despite the mechanisms envisaged at the legislative level and by statutes, there is a widespread opinion that the mechanisms of democratic internal governance in the political parties operating in Georgia remain weak. The party system in Georgia is quite unstable and weakly institutionalised; party competition is not sustainable and continuous, parties are not deeply rooted in the society, and party organisations depend on their leaders.⁷⁶⁰ It is also noteworthy that the two largest political parties – the UNM and Georgian Dream – are still strongly dependent on their former or current political leaders who remain the key decision makers. Within Georgian Dream, the power is mostly concentrated in the hands of its leader, Bidzina Ivanishvili.⁷⁶¹ Mikheil Saakashvili also retains a leading position within the UNM despite the fact that, formally, he is no longer the party chairman and has been living in Ukraine for years now.^{762 763}

ROLE: INTEREST AGGREGATION AND REPRESENTATION (PRACTICE)

Score: 25

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

Political parties in Georgia fail to effectively represent social interests.

In recent years, the trust of the Georgian population towards parties has been low. For example, in 2017, only 8 percent of respondents said they trusted political parties. Some 43 percent of respondents said they trusted or did not trust political parties to a certain extent while 40 percent said they did not trust them at all.⁷⁶⁴

According to a study conducted in 2018, only 13 percent of respondents in Georgia believed that political parties expressed their interests. In the opinion of the majority of respondents, political parties expressed their own (44 percent) or their funders' (31 percent) interests.⁷⁶⁵

756 Alliance of Patriots of Georgia, *Political Party Statute*, p.3, (in Georgian), <http://bit.ly/30t130e>

757 European Georgia - Movement for Liberty, *Political Party Statute*, (in Georgian), <http://bit.ly/38e7HKI>

758 United National Movement, *Political Party Statute*, (in Georgian), <https://unm.ge/ge/about-us/cesdeba>

759 Georgian Dream - Democratic Georgia, *Political Party Statute*, (in Georgian), <http://41.ge/charter>

760 Georgian Institute of Politics, *The Problem of Drawing Lines in Georgian Party Politics: Causes and Consequences*, April 2017, p. 8, (in Georgian), <http://bit.ly/2FJEg6W>

761 Basel Institute on Governance, *Informal Governance and Corruption – Transcending the Principal Agent and Collective Action Paradigms (Georgia Country Report)*, July 2018, <http://bit.ly/2NoMZQI>

762 Radio Free Europe / Radio Liberty (Georgian Service), *United National Movement Holds a Congress to Elect a New Chairman*, 24 March 2019, (in Georgian), <https://www.radiotavisupleba.ge/a/29838970.html>

763 Radio Free Europe / Radio Liberty (Georgian Service), *United National Movement - Has the Divide Always Been There?*, 20 May 2019, (in Georgian), <http://bit.ly/2s0srQz>

764 Caucasus Research Resource Center, *Caucasus Barometer 2017 Georgia, Survey Question: Trust Towards Political Parties*, <https://caucasusbarometer.org/en/cb2017ge/TRUPPS/>

765 Caucasus Research Resource Center, *Caucasus Barometer 2017 Georgia, Survey Question: Whose interests do Georgian political parties mostly represent?* <https://caucasusbarometer.org/en/nd2018ge/PPINTER/>

According to a survey conducted in 2019, 45 percent of citizens thought that none of the political parties had views similar to their own.⁷⁶⁶

These data point at two possible problems: either political parties cannot really express the interests of the public or communication between parties and the electorate is not effective. Both problems indicate that there is weak interconnection between parties and voters in Georgia.⁷⁶⁷

ROLE: ANTI-CORRUPTION COMMITMENT (PRACTICE)

Score: 50

To what extent do political parties give due attention to public accountability and the fight against corruption?

In recent years, Georgian political parties and independent political entities have been talking about the problems of the fight against corruption increasingly frequently in during electoral campaigns.

During the 2016 parliamentary elections, the United National Movement platform talked about the creation of an environment free from nepotism, corruption and clan governance.⁷⁶⁸ The 2016 platform of Georgian Dream also mentioned civil service reform and steps to be taken against corruption.⁷⁶⁹ The issues of corruption, nepotism and accountability were topical during the 2017 local self-government elections too. For example, Tbilisi mayoral candidates Elene Khoshtaria, Aleko Elisashvili and Zaal Udumashvili often talked about these issues during their campaigns.⁷⁷⁰⁷⁷¹⁷⁷²

Interestingly, according to NDI's public opinion survey for December 2018, those who think that there is no corruption in political parties constitute 14 percent of the population while almost half of the population – 46 percent – believe that corruption in political parties is present to a certain extent.⁷⁷³ It is noteworthy that the ruling Georgian Dream party nominated as its candidate in the Gori district for the 2016 parliamentary elections Ioseb Makrakhidze, who had been charged with a corruption-related crime and only had the charges against him dropped shortly before the elections on the basis of an amnesty.⁷⁷⁴

766 National Democratic Institute, *Public Attitudes in Georgia (survey)*, July 2019, <http://bit.ly/30kp3CT>

767 Georgian Institute of Politics, *Decreasing level of trust in Georgian political parties: What does it mean for democracy and how to avoid negative consequences?*, March 2019, p. 5, <http://bit.ly/2QP79VE>

768 United National Movement, *Political Party Program*, (in Georgian), <https://www.unm.ge/ge/about-us/programa>

769 Georgian Dream - Democratic Georgia, *Political Party Program*, p. 9, (in Georgian), <http://41.ge/program>

770 On.ge, *Running for Mayor without a Party - Interview with Aleko Elisashvili*, 7 September 2017, (in Georgian), <http://bit.ly/2TmVU8k>

771 Reginfo.ge, *United National Movement Nominated Zaal Udumashvili as Tbilisi Mayoral Candidate*, 26 June 2017, (in Georgian), <http://bit.ly/2TsM0SZ>

772 Eastern European Center for Multiparty Democracy, *Interview with Elene Khoshtaria (political party European Georgia)*, 2017, p. 2, (in Georgian), http://www.partiebi.ge/2017/uploads/Khoshtaria_Program_EECMD_2017.pdf

773 Georgian Institute of Politics, *Decreasing level of trust in Georgian political parties: What does it mean for democracy and how to avoid negative consequences?*, March 2019, p. 7, <http://bit.ly/2QP79VE>

774 FactCheck, *Mamuka Nozadze: Georgian Dream nominated a candidate in Gori who had been charged with a corruption-related crime*, 17 August 2016, (in Georgian), <http://bit.ly/3a4tR3v>

MEDIA

Georgian legislation creates a favourable environment for the establishment and operation of media organizations. However, the independence of the media -- especially of television -- is not ensured in practice and there are clear signs of interference in their editorial policies. Polarization of the media is a problem (first and foremost, during electoral campaigns), along with the use of hate speech by the media and dissemination of false information (especially via the Internet), which undermines the media's primary role of providing citizens with relevant information about important political processes. Investigative journalism is weak overall.

Media Final score: 58.3			
Dimension	Indicator	Law	Practice
Capacity 62.5	Resources	100	50
	Independence	75	25
Governance: 54.1	Transparency	100	50
	Accountability	75	25
	Integrity	50	25
Role: 58.3	Investigate and expose cases of corruption		75
	Inform public on corruption and its impact		50
	Inform public on governance issues		50
Law and practice average scores		80	43.7

STRUCTURE AND ORGANISATION

Television is the primary source of information in Georgia, followed by the Internet, while the influence of other media (including newspapers) is insignificant.⁷⁷⁵ The most popular TV stations include Imedi, Mtavari Arkhi, Rustavi-2, TV Pirveli, the Public Broadcaster, Palitraneews, Formula and the Ajaria Public Broadcaster.⁷⁷⁶

⁷⁷⁵ CRRC Georgia, *NDI: Public attitudes in Georgia*, April 2019, <https://caucasusbarometer.org/en/na2019ge/INFSOUF1/>

⁷⁷⁶ IRI Georgia, *Public Opinion Survey Residents of Georgia*, September-October 2019 <https://bit.ly/2RcYEE1>; CRRC Georgia, *NDI: Public attitudes in Georgia*, April 2019, <https://bit.ly/379TRbU>

RESOURCES (LAW)

Score: 100

To what extent does the legal framework provide an environment conducive to a diverse independent media?

Georgian legislation does not create any obstacles to the establishment of a diverse and independent media sector.

No authorisation or license is required to establish printed media and their operation is not regulated by any special norms.

The law lays down the rules for the establishment and operation of TV broadcasters. Broadcasting is conducted by the Public Broadcaster and the Public Broadcaster's Ajaria TV and Radio established under the Law on Broadcasting, as well as through licensing and/or authorisation. A license is granted through a competition conducted by the Georgian National Communications Commission (GNCC). The law establishes the requirements for the competition's participants, the timeframe for applications and for issuing a license to the winning participant.⁷⁷⁷ The decision to deny a license can be challenged in court.⁷⁷⁸ The commission is the sole body authorised to issue a broadcasting license.⁷⁷⁹

Authorisation is conducted through a procedure established by the law. An application must include certain mandatory types of information. The commission grants authorisation within 10 days of receiving an application. Authorisation is granted for an indefinite period of time.⁷⁸⁰

The Public Broadcaster is financed primarily from the state budget and its funding is equal to the 0.14 percent of the previous year's GDP.⁷⁸¹

According to the Georgian Constitution, the media is free and censorship is prohibited. The state, as well as individuals, are prohibited from monopolising information or the means of its dissemination.⁷⁸² The Law on Broadcasting also contains provisions designed to promote competition by prohibiting concentration of media ownership.⁷⁸³ The Constitution guarantees the public broadcaster's independence from state bodies, as well as its independence from political and commercial influence. At the same time, every person is entitled to the access and free use of the Internet.⁷⁸⁴ Under the 2018 amendments, the Public Broadcaster's right of carrying commercial advertising was expanded, which turned out to be controversial since it could create unequal conditions for private broadcasters which receive most of their income from advertising.⁷⁸⁵

777 Law on Broadcasting, adopted on 23 December 2004, Article 43.

778 Ibid., Article 44.

779 Ibid., Article 41.

780 Ibid., Article 45¹.

781 Ibid., Article 33.

782 Constitution of Georgia, adopted on 24 August 1995, Article 17.

783 Law on Broadcasting, Article 60.

784 Constitution of Georgia, Article 17.

785 Netgazeti, *Why Public Broadcaster Should (Not) Have Commercial Advertising*, 15 November 2017 (in Georgian), <https://netgazeti.ge/news/233975/>

RESOURCES (PRACTICE)

Score: 50

To what extent is there a diverse independent media providing a variety of perspectives?

Due to the scarcity of resources, Georgia's media sector is developed unevenly both across the regions and across the different types of the media.

Television is the primary source of information about important political and social issues, followed by the Internet. According to a public opinion survey, information is mainly disseminated via television.⁷⁸⁶

The number of TV stations has increased in recent years, although the size of the television market and the revenues have not grown.⁷⁸⁷ It should also be noted in this context that the regional media operating outside Tbilisi have scant and limited resources, which reduces their opportunities to grow.⁷⁸⁸

According to Nata Dzvelishvili, former director of the Journalist Ethics Charter, Georgia's media market is small and the amount of available resources is limited because owning media is not profitable business. Individuals usually set up media entities in order to promote their own business or political interests, which does not contribute to the establishment of a healthy media environment. At the same time, there are media entities established by enthusiasts with a sense of social responsibility who value the existence of high-quality media. However, these types of media have major financial problems and largely depend on donor funding.⁷⁸⁹

The Public Broadcaster and the Public Broadcaster's Ajaria TV receive guaranteed funding from the state budget. Consequently, their revenues are larger by a few million lari than the combined revenues of private TV stations. Following the 2018 amendments to the legislation, the Public Broadcaster's right to carry commercial advertising and conclude sponsorship deals was expanded. A majority of TV stations and civil society organizations opposed the amendments which were discussed amid heated confrontation. The President vetoed the amendments but the Parliament overrode the veto and the amendments eventually came into force.⁷⁹⁰ These amendments further exacerbated the unequal conditions in the market which smaller media entities were facing.⁷⁹¹

INDEPENDENCE (LAW)

Score: 75

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

⁷⁸⁶ CRRC Georgia, *Public Attitudes in Georgia*, March 2018, (in Georgian), <https://bit.ly/2v4iClh>

⁷⁸⁷ Transparency International Georgia, *Who Owns Georgia's Media*, 2018, https://www.transparency.ge/sites/default/files/media_mplobeloba-e.pdf

⁷⁸⁸ Transparency International Georgia, *Georgian Advertising Market 2018. Analysis and Challenges*, 17 July 2019, <https://www.transparency.ge/sites/default/files/advertising-market-2018-e.pdf>

⁷⁸⁹ Interview with Nata Dzvelishvili, former director of the Journalist Ethics Charter, 7 June 2019.

⁷⁹⁰ Transparency International Georgia, *The Georgian Advertising Market in 2017. Trends and Challenges*, 2018, <https://www.transparency.ge/sites/default/files/advertising-market-2017-eng.pdf>

⁷⁹¹ Interview with Nata Dzvelishvili.

Overall, Georgia has strong legislation in terms of the freedom of the media. The legislative framework contains multiple provisions designed to prevent undue interference in the activities of the media. The freedom of expression is protected by the Constitution, the Law on Freedom of Speech and Expression, and the Law on Broadcasting. The legislation also protects editorial independence and ensures access to public information.

The freedom of expression is protected by the Georgian Constitution which says that “every person has the right to freely receive and disseminate information.” The Constitution emphasizes that the “media are free. Censorship is prohibited. The state, as well as individuals, are prohibited from monopolising mass information or the means of its dissemination.”⁷⁹² The Georgian Constitution establishes the Public Broadcaster’s independence from state bodies and from political and commercial influence, as well as the institutional independence of the National Communications Commission.⁷⁹³

According to the Law on Freedom of Speech and Expression, the state recognizes and protects the freedom of speech and expression as a perpetual and supreme human value. According to the law, the freedom of expression means the right to find, receive, create, store, process and disseminate any form of information or ideas. Censorship is prohibited and the media’s editorial policy must be independent and pluralistic. Journalists have the right to refrain from disclosing their sources and to make editorial decisions according to their conscience.⁷⁹⁴ Restriction of the freedom of speech and unlawful interference in a journalist’s work are punishable offences under the Georgian Criminal Code.⁷⁹⁵

Political parties and their officials, administrative bodies and their employees, as well as the legal entities connected with administrative bodies and the legal entities registered in offshore jurisdictions are prohibited from owning broadcasting license or authorisation.⁷⁹⁶ According to the law, the Georgian National Communications Commission is required to take the necessary measures to promote pluralism of views in the news media and prevent concentration of broadcaster ownership.⁷⁹⁷

The legislation contains a number of provisions concerning the editorial independence of TV broadcasters. The Law on Broadcasting requires the Public Broadcaster, which receives funding from the state budget, to ensure the editorial independence, unbiased nature, and fairness of its programmes, as well as their freedom from different types of influence, including the government’s influence and any kind of political influence.⁷⁹⁸ The law directly prohibits public institutions from exerting pressure on the Public Broadcaster and contains a number of provisions which aim to ensure the Public Broadcaster’s independence.⁷⁹⁹

The Public Broadcaster’s board of trustees is made up of nine members. The Parliament elects the board’s members based on nominations by the Public Defender, the parliamentary majority, at least a quarter of the Parliament’s members outside the parliamentary majority, and the Supreme Council of the Autonomous Republic of Ajaria.⁸⁰⁰

The legislation does not create any significant obstacles to the establishment and operation of private, communal and university media, although private and communal broadcasters

792 Constitution of Georgia, Article 17.

793 Ibid., Article 17.

794 Law on Freedom of Speech and Expression, adopted on 24 June 2004, Article 3..

795 Criminal Code, adopted on 22 July 1999, Article 154.

796 Law on Broadcasting, Article 37.

797 Ibid., Article 62.

798 Ibid., Article 16.

799 Ibid., Article 18.

800 Ibid., Article 24.

must follow certain procedures while applying for license or authorisation. The rules for the granting of broadcasting license and authorisation does not contain any specific or direct mechanisms which would allow the authorities to exercise political control over the process. The broadcasting licenses and authorisation are issued by the Georgian National Communications Commission which, according to the Law on Broadcasting, is an independent regulatory body and is not subordinated to any state institution. The law directly prohibits interference in the activities of the commission's members.⁸⁰¹

Restrictions on the media's activities are only allowed under exceptional circumstances. According to the Constitution, such restrictions "are only allowed as established by the law, in order to ensure the necessary state or public security in a democratic society or territorial integrity, protect the rights of other individuals, prevent disclosure of the information recognized as confidential, or ensure independence and unbiased nature of the judiciary."⁸⁰² The Georgian Law on State of Emergency allows the executive branch to establish control over the media during the state of emergency.⁸⁰³ The Law on State of War contains a similar provision.⁸⁰⁴

Georgian legislation does not establish criminal liability for libel. According to the Law on Freedom of Speech and Expression, a media owner is the defendant in a court dispute over a journalist's libellous media publication.⁸⁰⁵ A person cannot be held liable for libel if they did not know and could not have known that they were disseminating libellous information.⁸⁰⁶

According to civil society organizations, the statements by government representatives that the libel laws need to change in order to combat dissemination of false information and the use of hate speech could potentially endanger the freedom of expression and impose restrictions on critical views.⁸⁰⁷ So does the legislative proposal which was submitted to the Parliament by the GNCC in 2018 and envisages transfer of a number of issues from the realm of the broadcasters' self-regulation to that of regulations.⁸⁰⁸

INDEPENDENCE (PRACTICE)

Score: 25

To what extent is the media free from unwarranted external interference in its work in practice?

The independence of the Georgian media is not ensured in practice. The authorities are likely using financial instruments, the judiciary and the law enforcement agencies for pressure on independent TV stations.

The Public Broadcaster's board of trustees elected Vasil Maghlaperidze as the broadcaster's general director on 6 January 2017. Vasil Maghlaperidze had worked as general producer of the 20/30 programme at the GDS TV station owned by the family of ruling party leader Bidzina Ivanishvili and earlier as deputy director of the TV9 station, also owned by the Ivanishvili

801 Ibid., Article 01.

802 Constitution of Georgia, Article 17.

803 Law on State of Emergency, adopted on 17 October 1997, Article 4.

804 Law on State of War, adopted on 31 October 1997, Article 4.

805 Law on Freedom of Speech and Expression, Article 6.

806 Ibid., Article 16.

807 Transparency International Georgia, *Why Freedom of Expression Must Not Be Restricted*, 29 May 2019, <https://www.transparency.ge/en/blog/why-freedom-expression-must-not-be-restricted>

808 Transparency International Georgia, "GNCC must not regulate hate speech," 20 June, 2019, <https://transparency.ge/en/post/gncc-must-not-regulate-hate-speech>

family.⁸⁰⁹ Following Maghlaperidze's election as director and the closing of 20/30 and other programmes on GDS, dozens of GDS employees moved to the Public Broadcaster, including some who were appointed to senior positions.⁸¹⁰

There have been other alarming events in recent years in terms of the independence of the media and the journalists. Two talk shows were closed on the Imedi TV station in 2015 and Inga Grigolia, who had hosted the programmes, was dismissed. Grigolia believed that the decision to close the programmes was a political one.⁸¹¹ Former Imedi producer Maia Stepnadze linked her dismissal in May 2019 to a social network post in which she had criticized the government. Subsequently, the Public Defender concluded that Imedi had discriminated against Stepnadze because of her views.⁸¹²

In February 2016, journalist Eka Mishveladze was dismissed from the Public Broadcaster, while her Pirveli Studia programme was closed. Mishveladze believed that the decision was linked to the fact that her husband was a leading member of an opposition party. A court subsequently ordered the Public Broadcaster to pay Mishveladze a compensation of GEL 30,000 for unlawful dismissal.⁸¹³

The impeachment of Natia Kapanadze, general director of the Public Broadcaster's Ajaria TV station, raised suspicions of political interference in the media's activities. The station's board of trustees subsequently elected Giorgi Kokhreidze as general director. The process of the director's selection, the new director's statements and his attitude toward the employees raised legitimate suspicions among the station's journalists and civil society organizations that the authorities were trying to change the Ajaria TV and radio stations' editorial policies in a way that would benefit the government through the new director.⁸¹⁴

The suspicions regarding the attempts to change the editorial policies of independent media entities were reinforced by journalist Nino Zhizhilashvili's statement, who said that, during her time at the Maestro TV station, the station's owner had demanded that she promote the government's and Russia's interests.⁸¹⁵ The change of Maestro's management in 2016 was followed by the closing of several programmes and dismissal of dozens of journalists.⁸¹⁶

The Iberia TV station was closed on 16 October 2018, following the authorities' freezing of the assets of Omega Group which was the station's main sponsor.⁸¹⁷ Journalists believed that the station's closing was linked to its editorial policies which had been critical toward the government.⁸¹⁸

809 Transparency International Georgia, *The election of Vasil Maghlaperidze points to increasing of political influence on the Public Broadcaster*, 11 January 2017, <http://bit.ly/2U3M6AG>

810 Transparency International Georgia, *Ivanishvili's Companies – Public Officials' Talent Pool Three Years Later*, 8 October 2018, <http://bit.ly/2sr9Fb7>

811 Netgazeti, *Inga Grigolia: Decision To Cancel Popular Programme Is Political*, 28 August 2015 (in Georgian), <https://bit.ly/2tzv9mL>

812 Netgazeti, *Public Defender Has Concluded That Imedia Discriminated Against Stepnadze Based on Her Dissenting Views*, 18 October 2019 (in Georgian), <https://netgazeti.ge/news/399270/>

813 REGinfo.ge, *Eka Mishveladze Has Won Dispute With Public Broadcaster in Court of Appeals Too*, 3 May 2018 (in Georgian), <https://bit.ly/36c40DE>

814 Transparency International Georgia, *Timeline of Georgian Dream's Efforts to Seize Adjara TV*, 11 December 2019, <http://bit.ly/37IGSOA>

815 Tabula, *Zhizhilashvili: Maestro Demanded Promotion of Government's and Russia's Interests Which Were Identical*, 19 October 2018 (in Georgian), <https://bit.ly/37g6sKz>

816 Tabula, *NGOs: Maestro Is Ignoring Journalists' Professional Freedom*, June 2016 (in Georgian), <https://bit.ly/2tukqtY>

817 Radio Liberty, *Unclear Future of Iberia Which Has Been Shut Down Twice*, 17 October 2018 (in Georgian), <https://bit.ly/2NLqipj>

818 Radio Liberty, *Iberia TV Station Accuses Authorities of Attempting To Shut It Down*, 7 September 2018 (in Georgian), <https://www.radiotavisupleba.ge/a/29477013.html>

In the summer of 2019, following the change of the Rustavi-2 TV station's owner, the station's new general director dismissed a group of leading journalists, while more than 60 journalists protested by quitting the station.⁸¹⁹ Some of the journalists who had left Rustavi-2 joined the Mtavari Arkhi station which former Rustavi-2 General Director Nika Gvaramia had established.⁸²⁰ Meanwhile, the Prosecutor's Office charged Gvaramia with abusing his power as Rustavi-2 director and causing damage to the company.⁸²¹ Civil society organizations suggested that the actions by the Prosecutor's Office were politically motivated.⁸²² According to the Public Defender, the charges against Gvaramia "did not contain clear evidence that would suffice to prove criminal liability."⁸²³

The owner and the journalists of another TV station, TV Pirveli, have also spoken about the government's attempts to interfere in the editorial policies. According to TV station host Nino Zhizhilashvili, there have been "alarming signals" concerning changes in TV Pirveli's content.⁸²⁴ The Prosecutor's Office summoned TV Pirveli owner Vakhtang Tsereteli for questioning on 6 August 2019,⁸²⁵ while also bringing money laundering charges against his father, Avtandil Tsereteli, on 22 August.⁸²⁶ The case involving Avtandil and Vakhtang Tsereteli has been linked to TV Pirveli's editorial policy which has been critical of the government.⁸²⁷ Civil society organizations have suggested that the case could be used for exerting pressure on independent media.⁸²⁸

Polarization of the media has become a trend in recent years and turned into a common trait of Georgia's main broadcasters. Bipolarity of the political system is among the reasons for this polarization. Rather than being guided by values, different media entities are biased in favour of particular individuals or parties, and the changes in the positions of political entities affect the editorial policies of the media.⁸²⁹

According to a report by the Journalist Ethics Charter, the Public Broadcaster failed to fulfil its role during the campaign for the 2017 local elections and was mostly biased in favour of the government. The station's Moambe news programme hardly ever carried any exclusive materials and failed to identify cases of corruption and violation of human rights.⁸³⁰ Like the Public Broadcaster, Imedi failed to act as a watchdog vis-à-vis the government throughout

819 Transparency International Georgia, *Rustavi 2 TV Journalists Resign En Masse, Citing Expected Changes to the Critical Editorial Policy*, 22 August 2019, <http://bit.ly/2u1p2rD>

820 Samkhretis Karibche, *Nika Gvaramia Has Established New TV Station Mtavari Arkhi*, 17 August 2019 (in Georgian), <http://sknews.ge/index.php?newsid=23915>

821 Business Media Georgia, *Prosecutor's Office Has Brought Charges Against Nika Gvaramia: What Is Investigation Accusing Former Rustavi-2 General Director of?*, 9 August 2019 (in Georgian), <https://bit.ly/34LbOMq>

822 Transparency International Georgia, *Statement of NGOs on the Charges Made Against former Director-General of Rustavi 2 - Nika Gvaramia*, 9 August 2019, <http://bit.ly/3aeaxRq>

823 The Georgian Public Defender, *Amicus Curiae Brief in connection with Nika Gvaramia's Case*, 4 November 2019, <https://bit.ly/3arFQbE>

824 Netgazeti, *There Were Signals Concerning Change of TV Pirveli's Content -- Nino Zhizhilashvili*, 16 February 2018 (in Georgian), <http://netgazeti.ge/news/253378/>

825 REGinfo.ge, *TV Pirveli Founder Has Been Summoned for Questioning in Court*, 8 August 2019 (in Georgian), <https://bit.ly/2TIRMjq>

826 Tabula, *Charges Brought Against Avtandil Tsereteli, Father of TV Pirveli Founder*, 22 August 2019 (in Georgian), <https://bit.ly/2TKiTuU>

827 Netgazeti, *No One Can Take TV Pirveli From Me -- Avtandil Tsereteli*, 27 August 2019 (in Georgian), <https://netgazeti.ge/news/388591/>

828 Transparency International Georgia, *Prosecution of TV Pirveli owner's family member reinforces questions concerning freedom of speech and selective justice in the country*, 22 August 2019, <http://bit.ly/30nbHFP>

829 Interview with Nata Dzvelishvili.

830 Georgian Charter of Journalist Ethics, *Election Media Monitoring Final Report, 2016-2018*, <https://www.gartia.ge/en/research/article/66558>

the entire 2017 campaign and the editorial priorities of the two stations became particularly similar after the elections. In some cases, they carried similar reports lenient toward the authorities. In 2017, bias was more evident in Imedi's news programmes than in the station's talk shows.⁸³¹

Before the second round of the 2018 presidential election, Imedi switched to an "emergency mode." A statement which the station issued said that Imedi would change its programming before the election and would work to ensure that the regime (the United National Movement) would not return.⁸³²

Civil society organizations have argued that the actions by the GNCC, and specifically a statement issued by the commission before the elections, qualified as misuse of administrative resources. The commission had posted a statement on its website on 25 September 2018, criticizing Rustavi-2 for increasing the amount of time devoted to political advertising. Although the decision did not contradict the law, the commission had also assessed negatively the content of the advertisements aired by the station and demanded removal of three advertising videos, claiming that they violated the law. According to civil society organizations, both moves raised questions regarding the regulatory body's institutional neutrality and pointed to the misuse of administrative resources before the elections for the benefit of Salome Zourabichvili, the candidate whom the ruling party had supported.⁸³³

According to civil society representatives, another action was problematic in terms of the editorial independence of the media: In August 2018, ahead of the election, the GNCC sent a letter to the broadcasters and warned them about the need to verify the trustworthiness of the public opinion polls conducted by their contractors, which created the danger of violation of data privacy and establishment of self-censorship in the country.⁸³⁴ The question became topical in 2016, when, following an appeal by journalist Shalva Ramishvili, the commission began reviewing the lawfulness of a public opinion survey which GFK Customs Research LLC, a company hired by Rustavi-2, had conducted. In 2017, the GNCC presented a legislative proposal to the Parliament whereby the law would require the media to verify survey results before publishing them.⁸³⁵

The GNCC's activities before the 2018 elections were also assessed negatively by the OSCE/ODIHR Election Observation Mission. According to its report, the GNCC "did not always display a transparent and impartial approach in its oversight and was hostile towards several NGOs, questioning their qualifications and assessments during the first round campaign."⁸³⁶

The events which have unfolded in the media sector in recent years have been reflected in the reports of various authoritative international organizations. For example, Georgia's score in the 2019 Irex Media Sustainability Index dropped to 2.31 (compared with 2.28 the previous year). The country received the lowest scores for "free speech," "professional journalism", "plurality of news sources" and "business management."⁸³⁷

831 Ibid.

832 Georgian Public Broadcaster, *Imedi TV Station Switching To Emergency Mode of Operation*, 30 October 2018, <https://bit.ly/2uhHAnE>

833 Transparency International Georgia, *Actions of GNCC point to use of administrative resources for election purposes*, 3 October 2018, <http://bit.ly/2RHGdaR>

834 Transparency International Georgia, *GNCC's demands to verify credibility of public opinion polls involves risk of introducing self-censorship*, 7 September 2018, <http://bit.ly/316TAEp>

835 Transparency International Georgia, *Publication of Public Opinion Polls by Media Under Threat*, 30 October 2017, <http://bit.ly/2RZngzm>

836 The OSCE Office for Democratic Institutions and Human Rights, *Georgia Presidential Election 28 October and 28 November 2018, OSCE/ODIHR Election Observation Mission Final Report*, 28 February 2019, <http://bit.ly/2QPqJAW>

837 IREX, *Media Sustainability Index - Georgia*, 2019, <https://bit.ly/2v7GFWR>

The media monitoring report prepared during the 2018 presidential election with the support from the EU and the UNDP also highlighted political bias among TV stations and their clear leaning toward the political poles.⁸³⁸

According to Reporters Without Borders, the “reforms of recent years have brought improvements in media ownership transparency and satellite TV pluralism, but owners often still call the shots on editorial content.”⁸³⁹ The organization also highlighted the need to protect editorial independence in Rustavi-2 following the change of the TV station’s owner.⁸⁴⁰

There has been a growing number of cases of obstruction and interference in journalists’ work and violence lately. The organizations working on this subject have highlighted problems in terms of the investigative bodies’ response to such cases.⁸⁴¹

TRANSPARENCY (LAW)

Score: 100

To what extent are there provisions to ensure transparency in the activities of the media?

Georgian legislation contains sufficient provisions to ensure transparent operation of the media.

The Law on Broadcasting requires broadcasters to annually present to the GNCC a compliance declaration, as well as the information about possession of other broadcast licenses or authorisations, ownership of shares or stocks in other broadcasters, ownership of printed publications or news agencies or ownership of shares or stocks in such entities, ownership of another enterprise or more than 5 percent of an enterprise’s stocks or shares. A broadcaster is also required to publish and to present to the commission the information regarding the possession by the owners of their shares or stocks, founders, other members, managers, donors or their family members of shares or stocks in another entity which holds a broadcast license or authorization. At the same time, a broadcaster is required to publish the compliance declaration on their website.⁸⁴²

A broadcaster is required to present to the commission a compliance declaration in the event of a change of the owners of its stocks and shares, members of management bodies, and managing staff within 10 days of such change. A broadcaster is also required to publish this information on its website.⁸⁴³

The commission adopts electronic reporting forms. The broadcasters are required to provide in these forms the information about their sources of funding, including separate figures for revenues from advertising, sponsorship, teleshopping, and donations made by the broadcaster’s owner or any other person.⁸⁴⁴

838 The Georgian Charter of Journalist Ethics, Election Media Monitoring Final Report, 2016-2018, <https://www.gartia.ge/en/research/article/66558>

839 Media Checker, *Georgia Ranks 60th Among 180 Countries in Press Freedom Index*, 18 April 2019 (in Georgian), <https://bit.ly/37qA2wY>

840 Reporters Without Borders (RSF), *Media pluralism must be preserved in Georgia - RSF Says*, July 24 2019, <https://rsf.org/en/news/media-pluralism-must-be-preserved-georgia-rsf-says>

841 Media Checker, *Obstruction of Journalists’ Work: Crime and Selective Punishment*, 26 December 2018 (in Georgian), <https://bit.ly/37ghXlc>

842 Law on Broadcasting, Article 61.

843 Ibid., Article 62.

844 Ibid., Article 70.

According to the law, the commission is to publicize the identity of the persons from whom a broadcaster has received more than GEL 7,000 over a period of three months via advertising, teleshopping, sponsorship, services or a donation.⁸⁴⁵

TRANSPARENCY (PRACTICE)

Score: 50

To what extent is there transparency in the media in practice?

Transparency of the media is only ensured partially in practice.

Following the legislative changes in recent years, the information about the owners of broadcasters has become publicly accessible. It is also possible to obtain the information about the broadcasters' revenues via the Internet.⁸⁴⁶ At the same time, ensuring the transparency of advertising remains a challenge.⁸⁴⁷

Transparency is ensured unevenly in the Internet media. Specifically, there are two conflicting trends. On the one hand, the advertising and other types of revenues of the news agencies which are funded mainly by international donor organizations are transparent. On the other hand, there are online news agencies which do not disclose the information about their owners, revenues and financing, while their goals are opaque too.⁸⁴⁸

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Multiple legislative provisions establish mechanisms for the media's accountability, but there are no similar legislative provisions regulating printed and online media.

TV broadcasters are required to set up self-regulatory mechanisms in order to address the complaints concerning the content of their programmes.

According to the Law on Broadcasting, the GNCC is responsible for overseeing the activities of the broadcast media. The holders of broadcasting licences/authorisation are required to present annual reports to the commission. These must contain information about compliance with license terms and the sources of funding, as well as an audit report. A nationwide broadcaster is required to conduct accounting according to the standards approved by the International Accounting Standards Committee and the Georgian Parliament's Accounting Standards Commission. Holders of licenses/authorization are required to present to the commission the information about their sources of funding, including separate figures for the revenues from advertising, sponsorship, teleshopping and donations.⁸⁴⁹

845 Ibid., Article 70.

846 The Georgian National Communications Commission, *Information and Analysis Portal*, <https://analytics.gncc.ge/>

847 Transparency International Georgia, *The Georgian Advertising Market in 2017. Trends and Challenges*, 2018, <https://www.transparency.ge/sites/default/files/advertising-market-2017-eng.pdf>

848 Interview with Nata Dzvelishvili.

849 Law on Broadcasting, Article 70.

In the event of a broadcaster's violation of Georgian legislation or their failure to comply with the commission's decision or the terms of a license/authorisation, the commission is required to deliberate on the subject. If a violation is confirmed to have occurred, the commission is authorised to issue a written warning to the broadcaster. The commission's use of a sanction against a broadcaster should aim to eliminate or prevent a violation. The commission must provide a broadcaster with a reasonable amount of time for correcting a violation or implementing preventive measures.⁸⁵⁰

In the event of a broadcaster's violation of the terms of a license/authorisation or other requirements of the law, any "interested party" can file an appeal either with the GNCC or a court.

According to the law, a broadcaster is required to set up an effective self-regulatory mechanism.⁸⁵¹ Under the Broadcasters' Code of Conduct, a broadcaster can choose a self-regulatory mechanism which complies with high professional standards and incorporates a transparent procedure for effectively considering appeals and responding to them in a timely and well-founded manner.⁸⁵² The information regarding the appeals filed via such mechanism and the decisions delivered is to be subsequently submitted to the GNCC together with the broadcaster's annual report.⁸⁵³

The Code also establishes the rules for the review of complaints by the self-regulatory mechanism and for appealing its decisions.⁸⁵⁴ The Code requires the broadcasters to prevent the dissemination of "false and misleading information" and to "correct significant factual mistakes" "publicly and without delay, by proportionate means and in a proportionate manner at an appropriate time, once a broadcaster learns about a mistake."⁸⁵⁵ A person at whom accusations were levelled during a programme must be given the opportunity of timely and appropriate response which must receive fair coverage and must be aired in the same programme where the accusation was made.⁸⁵⁶

It should be noted that only an "interested party" can file a complaint over the violation of the Broadcasters' Code of Conduct which is defined as "any person who is affected by or is mentioned in a programme or in a decision by a broadcaster's self-regulatory body."⁸⁵⁷ Such narrow definition of an "interested party" deprives a large circle of individuals of the possibility of filing complaints over the violations of the code.

The Public Broadcaster presents annual reports to the Parliament which must ensure public discussion of the report.⁸⁵⁸ The Parliament is also authorised to declare no confidence in the board of trustees based on the appropriate legislative provision.⁸⁵⁹ As for the Ajaria TV and radio station's advisory board, it presents annual reports to the Public Broadcaster's board of trustees and the Supreme Council of the Autonomous Republic of Ajaria.⁸⁶⁰ According to the law, the Public Broadcaster's board of trustees can propose that the Supreme Council consider declaring no confidence in the advisory board. A group of at least one-third of the Ajarian Supreme Council members can raise the issue of no confidence.⁸⁶¹

850 Ibid., Article 71.

851 Ibid., Article 14.

852 Resolution of the Georgian National Communications Commission No 2, adopted on 12 March 2009, Article 7.

853 Ibid., Article 8.

854 Ibid., Article 9.

855 Ibid., Article 13.

856 Ibid., Article 20.

857 Ibid., Article 5(f).

858 Law on Broadcasting, Article 35⁶, Article 1.

859 Rules of Procedure of the Parliament, adopted on 6 December 2018, Article 184.

860 Law on Broadcasting, Article 35¹³.

861 Ibid., Article 35¹, Paragraphs 9-10.

ACCOUNTABILITY (PRACTICE)

Score: 25

To what extent can media outlets be held accountable in practice?

The level of accountability in practice is uneven across the media in Georgia. A review of the websites of broadcasters shows that they apply different standards in terms of the accessibility of information regarding the self-regulatory bodies as far as accountability is concerned. The number of appeals filed with the broadcasters is quite small. Also, according to civil society organizations and multiple international organizations, the broadcasters' reports were characterized by manipulation and violation of ethical standards against the background of intense polarization before the elections.⁸⁶²

The GNCC website contains the compliance declarations of the broadcasters holding licenses/authorization in any part of Georgia.⁸⁶³

The Rustavi-2 website contains the data for 2019, as well as instructions for filing appeals.⁸⁶⁴ The TV Pirveli website contains a list of the self-regulatory council members but does not contain statistics or other types of content.⁸⁶⁵ The Imedi website contains an audit report which includes information about the appeals submitted to the self-regulatory council and the decisions it has delivered.⁸⁶⁶ The Public Broadcaster's website contains the 2018 audit report which includes information about the appeals submitted to the self-regulatory council.⁸⁶⁷ Similar information is available on the Ajaria Public Broadcaster's website.⁸⁶⁸

Overall, there is no systematized and uniform practice in terms of the internal self-regulatory mechanisms of the broadcasters.⁸⁶⁹ The GNCC has proposed legislative amendments which provide for the introduction of a co-regulatory system and could potentially result in the establishment of self-censorship.⁸⁷⁰

INTEGRITY MECHANISMS (LAW)

Score: 50

To what extent are there provisions in place to ensure the integrity of media employees?

Georgia's legislation partially ensures the integrity of the media.

The Code of Conduct adopted by the GNCC regulates the issues concerning the broadcasters' integrity. The Code aims to ensure that "all types of broadcasters, especially the Public Broadcaster, treat the protection of ethics norms and their accountability toward society with

⁸⁶² Georgian Charter of Journalist Ethics, *Election Media Monitoring Final Report*, 2016-2018, <https://www.qartia.ge/en/research/article/66558>

⁸⁶³ Georgian National Communications Commission, *Compliance Declarations*, <https://bit.ly/36cJC5l>

⁸⁶⁴ Rustavi 2, *Self-Regulation*, <http://rustavi2.ge/ka/tvg>

⁸⁶⁵ TV Pirveli, *About Us*, <http://www.tvpirveli.ge/?page=about>

⁸⁶⁶ Imedi, *Independent Auditor's Annual Report for 2018*, <https://bit.ly/37iBgKK>

⁸⁶⁷ Georgian Public Broadcaster, *The Georgian Channel One's 2018 Report*, 2018, <https://bit.ly/36id6Pj>

⁸⁶⁸ Public Broadcaster's Ajaria TV and Radio, *LEPL Public Broadcaster Ajaria Television and Radio's Report for 2018*, <https://bit.ly/30Hw0Ot>

⁸⁶⁹ Interview with Nata Dzvelishvili.

⁸⁷⁰ Transparency International Georgia, *GNCC must not regulate hate speech*, 17 June 2019, <https://www.transparency.ge/en/post/gncc-must-not-regulate-hate-speech>

an equal degree of responsibility.” The Code covers the following issues: accuracy, unbiased coverage, fair treatment, sociopolitical programmes and electoral coverage, public opinion surveys, editorial independence, diversity, equality and tolerance, the right to privacy, protection of minors, crime and anti-social behaviour, armed confrontation, accidents, emergency situations, protection from harm and insults, advertising, sponsorship, intellectual property rights, contests and prizes. The Code establishes a number of mandatory principles.⁸⁷¹

The Journalist Ethics Charter is one of the main mechanisms for ensuring the integrity of Georgian media. Its governing body is a nine-strong council which appoints the executive director. The council deliberates on complaints against journalists. The council’s members are elected for a three-year term at the general meeting of the journalists who have signed the charter. Currently, there are 360 signatories to the charter. The Journalist Ethics Charter reviews, within the limits of its mission and based on the applications submitted to the organization, instances of violation of professional standards by journalists.⁸⁷²

INTEGRITY MECHANISMS (PRACTICE)

Score: 25

To what extent is the integrity of media employees ensured in practice?

Despite the efforts by the professional media associations, applying the principles of integrity in the daily lives of journalists remains a challenge. This proved particularly problematic during recent electoral campaigns. There are frequent cases of disinformation and use of hate speech.

The number of cases reviewed by the Journalist Ethics Charter is rising every year, which could indicate an increase in the number of the individuals who believe that they have been harmed by the media’s violation of ethical standards. The charter reviewed 28 cases in 2016, 56 cases in 2017, 62 cases in 2018 and 75 cases in 2019.⁸⁷³ The growth of the number of applications could also be linked to the fact that the charter now also receives complaints against non-member journalists.

Mediachecker is another organization which monitors compliance with journalist ethics standards in the Georgian media. Its platform monitors, on a daily basis, the primetime news programmes of TV stations, online publications, and newspapers, as well as the coverage of specific issues by the media, in order to assess compliance with ethical principles.⁸⁷⁴

There has been progress in terms of the broadcasters’ compliance with ethical standards on issues such as children’s rights, hate speech, and others. However, the coverage of politically sensitive issues remains a problem. Specifically, compliance with ethical standards was a major issue during the coverage of the 2018 presidential election. The presence of political interests in the media has had a negative impact on professional standards. Importantly, in some cases, journalists themselves contact the Journalist Ethics Charter during their work and seek advice in order to avoid violations of ethical standards. There have also been cases where the pro-government media have refused to collaborate with the charter.⁸⁷⁵

871 Resolution by the Georgian National Communications Commission No 2.

872 Charter of Journalist Ethics, <https://www.qartia.ge/ka/qartia>

873 Charter of Journalist Ethics, Complete list of cases, <https://www.qartia.ge/ka/gankhiluli-saqmeebi>

874 Media Checker, Ethics, <https://www.mediachecker.ge/ka/siakhleebi>

875 Interview with Nata Dzvelishvili.

According to an OSCE/ODIHR report, during the 2018 presidential election, the diverse media environment was polarized according to political affiliation and business interests. Television remained the primary source of political information, followed by online and social media far behind.⁸⁷⁶ According to the Journalist Ethics Charter's monitoring, negative coverage of unwanted candidates was the main trait of the 2018 election. This was particularly evident in the programmes of Rustavi-2 and Imedi. The reports of these TV stations about the candidates were characterized by manipulation and violation of ethical principles.⁸⁷⁷

Before the 2018 election, Mediachecker identified more than 30 Facebook pages which tried to discredit specific candidates or political parties. These pages were attempting to influence voters through doctored photos and videos, hate speech, calls, offensive texts, fabricated materials and dissemination of disinformation.⁸⁷⁸

There has been a trend of the Imedi TV station's attempting to discredit NGOs through one-sided coverage of issues concerning nongovernmental organizations in its programmes.⁸⁷⁹ According to Mediachecker, Imedi and the Public Broadcaster highlighted the interests and the agenda of nongovernmental organizations and a particular political group during the coverage of the 21 April 2019 events in the Pankisi Gorge, thereby attempting to blame them for the problem.⁸⁸⁰ Representatives of nongovernmental organizations appealed to the Journalist Ethics Charter on several occasions over manipulative and misleading reports aired by Imedi. The charter found that Imedi had violated principles of journalist ethics against the employees of the Georgian Young Lawyers Association⁸⁸¹ and Transparency International Georgia.⁸⁸²

Recently, a growing number of social media pages have been using hate speech and disseminating disinformation while covering the activities of the government and the opposition. No information is available regarding their funding and financial resources. In December 2019, Facebook deleted hundreds of fake Georgian pages which were likely connected with the government and criticized civil society representatives.⁸⁸³

Anti-western propaganda based on disinformation has been disseminated in an organized manner in recent years. According to a Media Development Foundation (MDF) study, the dissemination of uniform messages in 2015-2018 created the impression that it was a centralized process. At the same time, new online platforms are being created for viral dissemination of disinformation.⁸⁸⁴ Under its Myths Detector project, the MDF conducted media monitoring over a period of one year and identified 177 instances of disinformation.⁸⁸⁵

876 OSCE, ODIHR, 2019, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

877 Georgian Charter of Journalist Ethics, *Election Media Monitoring Final Report*, 2016-2018, <https://www.qartia.ge/en/research/article/66558>

878 Media Checker, *Some of Pages Created in Social Media To Discredit Candidates Were Deleted Day After Election*, 3 December 2018 (in Georgian), <https://bit.ly/2TPVQ1r>

879 Media Checker, *Judgement of Nongovernmental Sector in Imedis Kvira*, 23 July 2019 (in Georgian), <https://bit.ly/2ReWfZx>

880 Media Checker, *Trace of Nongovernmental Organizations and National Movement in Pankisi According to Public Broadcaster and Imedi*, 26 April 2019, <https://bit.ly/2tu8h8p>

881 Charter of Journalist Ethics, *Decision in GYLA vs. Natia Songhulashvili Case*, 9 July 2019, <https://bit.ly/2RfXJT5>

882 Charter of Journalist Ethics, *Decision in Levan Natroshvili vs. Anuki Gumberidze, Levan Javkhisvili and Teona Gegelia*, 3 February 2019, <https://bit.ly/2GbEq7p>

883 Facebook, *Removing Coordinated Inauthentic Behavior From Georgia, Vietnam and the US*, December 20, 2019, <https://bit.ly/2QYlLnX>

884 Media Development Foundation, *Anti-Western Propaganda 2018*, 2019, http://mdfgeorgia.ge/uploads/library/119/file/eng/Anti_West-2018-ENG.pdf

885 Ibid.

INVESTIGATE AND EXPOSE CASES OF CORRUPTION (PRACTICE)

Score: 75

To what extent is the media active and successful in investigating and exposing cases of corruption?

Exposing and investigating cases of corruption has been one of the main areas of investigative journalism in recent years. There are programmes of this kind in the Georgian media sector too, although their number remains small due to limited resources and other factors.

Journalist investigations conducted by Studio Monitor are noteworthy. The studio has conducted some 200 investigations since 2005.⁸⁸⁶ Studio Monitor launched the Liberty Monitor project together with Radio Liberty in 2018 which focuses on exposing corruption.⁸⁸⁷ Investigative journalists' group iFact's work in terms of exposing corruption is also noteworthy.⁸⁸⁸

Shabatis Kurieri and Kurieri P.S. were aired weekly on Rustavi-2 for many years (Kurieri P.S. has been airing under the name of Post Factum on Mtavari Arkhi since the departure of a number of journalists from Rustavi-2 and the establishment of a new TV station). Both programmes conducted multiple journalist investigations and exposed different types of cases of corruption.⁸⁸⁹ The Public Broadcaster also airs programmes based on investigative journalism, such as Gamomdzibeli Reportiori. However, despite the Public Broadcaster's financial capacity, the reports are irregular. For example, only three reports aired in 2018 and five in 2019.⁸⁹⁰ The Public Broadcaster's effectiveness in terms of exposing corruption is limited by the ruling party's influence which was discussed in the relevant section of this chapter.

INFORM PUBLIC ON CORRUPTION AND ITS IMPACT (PRACTICE)

Score: 50

To what extent is the media active and successful in informing the public on corruption and its impact on the country?

As noted in the previous section, multiple media outlets are actively covering corruption in Georgia. At least one leading TV station and several online and printed publications have programmes or sections devoted to this subject. On the other hand, there is still a notable lack of analytical materials on corruption. Also, the TV stations that are lenient toward the authorities have been passive in recent years in terms of covering various high-profile cases or have ignored such cases completely.⁸⁹¹

886 Studio Monitor, About Studio Monitor, <https://bit.ly/2NOyTrj>

887 Radio Liberty, Liberty Monitor, <https://bit.ly/37jjFCn>

888 <https://ifact.ge/en/>

889 Rustavi-2, All Programmes, <http://rustavi2.ge/ka/shows>

890 Georgian Public Broadcaster, Investigative Reporter, <https://bit.ly/37fOEzi>

891 Media Checker, Omitted Topics, <https://bit.ly/2NLRcNP>

INFORM PUBLIC ON GOVERNANCE ISSUES (PRACTICE)

Score: 50

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

The polarization of the media and the problems in terms of the independence of TV stations are affecting the Georgian media's ability to provide the public with objective information about government and politics.

Georgia's media sector is quite pluralistic in terms of the information delivered to the public. At the same time, studies by both domestic and international authoritative organizations indicate that the media are extremely polarized (see the relevant section of this chapter). The most influential broadcasters are lenient either toward the government or the opposition parties and biased in their favour. For example, according to the OSCE/ODIHR report on the 2018 presidential election, the diverse media environment was extremely polarized based on political affiliation and business interests.⁸⁹²

The ability of the media (especially the TV stations) to provide the public with objective information about the government's activities and political developments is also undermined by the challenges in terms of their independence which are discussed in the relevant section of this chapter.

892 OSCE, ODIHR, 2019, <https://www.osce.org/ka/odihr/elections/georgia/414827?download=true>

CIVIL SOCIETY

Georgia has a large number of civil society organizations (CSOs). Although there is a significant number of organizations with stable funding and highly qualified staff members, most of the country's CSOs face serious problems in terms of resources, while overreliance on foreign donor money remains a challenge for the entire sector. The country's leading CSOs work actively to hold the government accountable and promote policy reforms, although the government often ignores their recommendations and has, more recently, stepped up aggressive verbal attacks on these organizations.

Civil Society Final Score: 58.3			
Dimension	Indicator	Law	Practice
Capacity: 62.5	Resources	75	25
	Independence	100	50
Governance: 50	Transparency		50
	Accountability		50
	Integrity	50	
Role: 62.5	Hold government accountable		75
	Policy reform		50
Law and practice average scores		75	50

STRUCTURE AND ORGANIZATION

There are over 26, 000 non-profit, non-governmental organizations registered in Georgia.⁸⁹³ Civil Society Organizations (CSOs) fall under the category of “non-commercial legal entities”, however, the law also provides for the operation of unregistered unions.⁸⁹⁴ Registration is managed by the Public Registry under the Ministry of Justice, while registration for the so called “charity status” is managed by the Ministry of Finance. The largest and most active organizations are concentrated in Tbilisi, while the capacity of CSOs in the regions is far weaker.

⁸⁹³ USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 89, <http://bit.ly/2u4tLbR>

⁸⁹⁴ Civil Code of Georgia, Article 2.

RESOURCES (LAW)

Score: 75

To what extent does the legal framework provide a conducive environment for civil society?

The legal framework is generally favourable for the establishment and operation of CSOs. The Constitution guarantees the right to form and join public associations, as well as the freedom of expression and other related freedoms (such as the freedom of the media and of the Internet),⁸⁹⁵ so citizens are free to form CSOs, engage in advocacy and criticize the government.

The Civil Code lays down the specific rules for establishing and registering CSO. Their registration is handled by the Public Registry. The Code also allows for the operation of unregistered CSOs. A CSO can only be suspended or banned by a court.⁸⁹⁶ The registration process is fairly simple, quick and affordable, costing about 100 GEL (40 USD). On the other hand, the dissolution procedure can be a tedious and time-consuming process, which has resulted in a large number of organizations that only exist on paper.⁸⁹⁷

Georgian CSOs enjoy some tax exemptions on charity, grant, and membership revenues but are taxed similarly to businesses on non-grant revenues and expenses. Although businesses are eligible for tax deductions on their donations to charities, CSOs who receive such donations are subject to additional requirements (including submission of reports to the authorities) and no such deductions are possible for individual donors. CSOs are eligible for refunds on value-added tax (VAT).⁸⁹⁸

RESOURCES (PRACTICE)

Score: 25

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Most of Georgia's CSOs face significant challenges in terms of their access to resources in practice. Local sources of funding are very limited.

According to USAID, there is a "significant discrepancy" in capacities between the larger Tbilisi-based CSOs and those that operate in the regions and find it more difficult to access "sustainable sources of funding." Overall, the CSOs are "critically dependent on foreign donor support" which focuses on project-based funding rather than institutional development. This makes it difficult for the majority of CSO to retain staff in the long run, resulting in their being "one-person organizations in which institutional viability is directly linked with their founders." CSOs tend to move from one issue area to another depending on changes in donor priorities and the availability of funding, failing to build stable constituencies or strong ties with local communities.⁸⁹⁹

⁸⁹⁵ Constitution of Georgia, Article 26.

⁸⁹⁶ Civil Code of Georgia, Articles 27-39.

⁸⁹⁷ USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 90, <http://bit.ly/2u4tLbR>

⁸⁹⁸ Ibid., p 95.

⁸⁹⁹ Ibid., p 96.

These-capacity related problems, in turn, affect the ability of many CSOs to raise funds. According to an expert interviewee, there are more funds available than matching quality proposals worthy of financial support. Additionally, many of the CSOs tend to take on too many topics, which often proves counterproductive. The latter stems from the fact that many organizations try to target as many grant opportunities as possible, rather than focus on one or two areas in which they are truly proficient. Such casting of a wide net in search of grant opportunities, results in short supply of specialized CSOs.⁹⁰⁰

On the positive side, the government offers grant opportunities for CSOs, although this type of funding is too limited to influence the overall sustainability of the sector, while the fairness of its allocation has also been questioned.⁹⁰¹

INDEPENDENCE (LAW)

Score: 100

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

The legal framework that regulates the activities of CSOs in Georgia generally provides an adequate level of protection against unwarranted intervention.

Citizens can form and join groups promoting good governance and anti-corruption activities regardless of political ideology, religion or objectives. There are restrictions on the ideology and objectives of CSOs, but they are limited to legitimate public interests. Specifically, the law allows for the prohibition of associations that aim to bring down or violently change the constitutional order, destroy the country's independence or violate its territorial integrity, as well as associations that advocate war and violence or incite national, regional, religious or social hatred.⁹⁰² This can only be done through a court ruling.⁹⁰³

State control of CSO operations is limited to the suspension or prohibition of activities and only possible through a court decision. There are no further regulations allowing undue state interference in the operation of CSOs.

INDEPENDENCE (PRACTICE)

Score: 50

To what extent can civil society exist and function without undue external interference?

Georgia's CSOs generally operate without undue external interference, although high-ranking officials have resorted to verbal attacks against some of the most active organizations. CSOs have also become targets of disinformation campaigns in recent years, while far-right groups have engaged in violence against the organizations focusing on LGBT rights.

900 Interview with Tamar Karosanidze, East West Management Institute Chief of Party, 1 July 2019.

901 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 97, <http://bit.ly/2u4tLbR>

902 Law on Suspension and Prohibition of Civil Associations, Article 4.

903 Ibid., Article 2.

According to Freedom House, CSOs “enjoy a strong degree of political freedom” in Georgia.⁹⁰⁴ The government has not imposed any restrictions on CSO activities or resorted to violence against CSOs in recent years.

On the other hand, there has been a growing number of verbal attacks on CSO leaders by government officials, as well as the representatives of far-right ultraconservative and religious groups.⁹⁰⁵ In October 2018, a group of the country’s leading CSOs expressed their concern over the attacks on civil society by ruling party leader Bidzina Ivanishvili, Parliament Chairman Irakli Kobakhidze, and Justice Minister Tea Tsulukiani.⁹⁰⁶ Their concern was seconded by the Transparency International Secretariat which declared its “alarm” over “pressure” on CSOs in Georgia and urged the government to refrain from “baseless accusations” against them.⁹⁰⁷ The OSCE ODIHR also noted public officials and leading members of the ruling party “harshly criticized” CSO observer groups during the 2018 presidential election.⁹⁰⁸

The LGBT community and the CSOs focusing on their rights have been repeatedly targeted by far-right groups and have been unable to hold rallies because of safety concerns, while the government has been unable to address this problem.⁹⁰⁹

A new type of challenge which has emerged in recent years is the government’s alleged use of disinformation campaigns and Internet trolls to discredit civil activists, CSOs and their leaders.⁹¹⁰ In December 2019, Facebook removed hundreds of fake pages that were allegedly linked with the Georgian Government and engaged in the criticism of civil society representatives.⁹¹¹

TRANSPARENCY (PRACTICE)

Score: 50

To what extent is there transparency in CSOs?

Transparency is ensured unevenly across Georgia’s civil society.

The degree of transparency varies across Georgia’s CSO sector. For example, 36 organizations have signed the Transparency Declaration, pledging to ensure transparency of their funding and of other aspects of their operation.⁹¹² The relevant information about these organizations is published on a dedicated website.⁹¹³

904 Freedom House, *Nations in Transit - Georgia*, 2018, <https://freedomhouse.org/report/nations-transit/2018/georgia>

905 Interview with Tamar Karosanidze, East West Management Institute Chief of Party, 1 July 2019.

906 Institute for Development of Freedom of Information, *Government’s Coordinated Attack on Civil Society Harms Democracy in Georgia*, 24 October 2018, <http://bit.ly/374jM4T>

907 Transparency International Georgia, *Alarm over Increasing Signs of State Capture and Pressure on Civil Society in Georgia*, 16 October 2018, <http://bit.ly/38h5M84>

908 OSCE ODIHR, *Georgia Presidential Election 2018, Election Observation Mission Final Report*, 28 February 2019, p. 19, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

909 US Department of State, *2018 Country Reports on Human Rights Practices: Georgia*, 13 March 2019, p. 19, <http://bit.ly/2R1VVgB>

910 Media Development Foundation, *Troll Factory against TBC, NGOs and Media*, 2019, <http://bit.ly/2R29igH>

911 Facebook, *Removing Coordinated Inauthentic Behavior From Georgia, Vietnam and the US*, 20 December 2019, <http://bit.ly/376A5Oo>

912 cso.ge, *Transparency Declaration of Non-Governmental Organizations*, <http://bit.ly/2RtSZbB>

913 cso.ge, *Proactive Base of Transparency*, <http://bit.ly/35Vs3qo>

Overall, the portion of the CSOs that publish financial reports is very small.⁹¹⁴ Recent years have seen the proliferation of organizations whose financing is difficult to trace. This could be linked to efforts by the government and the ruling party to influence public discourse by providing financial support to loyal CSOs.⁹¹⁵

ACCOUNTABILITY (PRACTICE)

Score: 50

To what extent are CSOs answerable to their constituencies?

Accountability mechanisms are weak in many of Georgia's CSOs.

The accountability of CSOs is negatively affected by the fact that there are few membership-based organizations and most CSOs lack well-defined constituencies. Few organizations have active boards that participate in their activities. In a majority of organizations that have boards, they are a formality and are only established to meet donor requirements.⁹¹⁶

While some organizations have financial management systems and control procedures in place, most CSOs lack such resources and cannot afford to conduct annual audits without donor support.⁹¹⁷

INTEGRITY (LAW AND PRACTICE)

Score: 50

To what extent are there mechanisms in place to ensure the integrity of CSOs? To what extent is the integrity of CSOs ensured in practice?

Some of Georgian CSOs are formally committed to ensuring the integrity of their operation.

There is no sector-wide CSO code of conduct. A number of organizations have signed up to the Declaration of Main Principles of Georgian Civil Organizations which establishes key principles for the operation of the signatories, including protection of human rights, rule of law, equality, sustainable development, participatory approach, transparency and accountability, integrity, and promotion of internal democracy within the organizations.⁹¹⁸

However, it is difficult to assess the overall level of integrity in the sector. According to USAID, only the most successful and financially stable CSOs tend to have internal policies and standards addressing workplace ethics, professionalism, and anti-corruption.⁹¹⁹ The head of a leading CSO was accused of sexual harassment in 2018 and the Public Defender's inquiry found the allegations to have been valid.⁹²⁰

914 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 101, <http://bit.ly/2u4tLbR>

915 Interview with Tinatin Bolkvadze, Program Manager at OSGF, 15 May 2019.

916 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 96, <http://bit.ly/2u4tLbR>

917 Ibid., p 98.

918 cso.ge, *Code of Ethics of Civil Society Organizations (2004 edition)*, <http://www.cso.ge/ethic.php>

919 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 101, <http://bit.ly/2u4tLbR>

920 Radio Free Europe / Radio Liberty (Georgian Service), *Ombudsman: Facts of sexual harassment have been established in Zviad Devdariani's case*, 2 November 2018, <https://bit.ly/2QXIJYI>

The public perception of CSOs is mixed. In a 2019 survey, an almost equal number of respondents (25 vs 26 percent) said that they trust and distrust nongovernmental organizations.⁹²¹

ROLE: HOLD GOVERNMENT ACCOUNTABLE (PRACTICE)

Score: 75

To what extent is civil society active and successful in holding government accountable for its actions?

Multiple CSOs work actively to hold the government accountable in Georgia, although their activities are often hampered by an environment where the government tends to ignore their opinion or even resort to hostile rhetoric against them.

According to Freedom House, “Georgia’s civil society sector consists of politically active watchdogs, NGOs, and think tanks, which are involved in the country’s political processes, contribute to civic mobilization, and cooperate closely with the international community to keep the government in check.” Recent years have also seen the emergence of volunteer activist groups (mostly made up of students and other young people) focusing on environmental protection, women’s rights, and fighting against corruption and repressive drug policies.⁹²²

The attitude of the authorities remains a major challenge for CSOs. According to Freedom House, the “authorities tend to ignore civil society critiques unless they manage to spark the interest of the international community.”⁹²³ According to USAID, the government has been “less accepting of criticism from CSOs” and has responded with a “coordinated broadside,” undermining the ability of CSOs to “contribute meaningfully to the work of the state constitutional commission or to affect controversial judicial appointments.”⁹²⁴ In 2019, a coalition of CSOs left a working group established by the Chairman of the Parliament in order to develop rules for the selection of Supreme Court judges, citing the unwillingness of the ruling party leadership to consider their recommendations.⁹²⁵

CSOs have contributed to transparency of the electoral process through long-term and short-term observation, although they became targets of strong government criticism during the 2018 presidential election, resulting in a decline in dialogue between the authorities and the civil society.⁹²⁶ A number of CSOs expressed their “extreme concern” with the pressure from the authorities to disclose a whistle-blower’s identity in an alleged plot to rig voting.⁹²⁷

921 CRRC, *Caucasus Barometer 2017 Georgia*,

<https://caucasusbarometer.org/en/cb2017ge/TRUNGOS/>

922 Freedom House, *Nations in Transit - Georgia*, 2018,

<https://freedomhouse.org/report/nations-transit/2018/georgia>

923 Ibid.

924 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 98, <http://bit.ly/2u4tLbR>

925 Georgian Young Lawyers’ Association, *The Coalition Left the Working Format Offered by the Speaker of Parliament of Georgia*, 27 February 2018, <http://bit.ly/2R0hGNQ>

926 OSCE ODIHR, *Georgia Presidential Election 2018, Election Observation Mission Final Report*, 28 February 2019, p. 19, <https://www.osce.org/odihr/elections/georgia/412724?download=true>

927 USAID, *2017 Civil Society Organization Sustainability Index for Central and Eastern Europe and Eurasia*, 21st edition, September 2018, p. 98, <http://bit.ly/2u4tLbR>

ROLE: POLICY REFORM (PRACTICE)

Score: 50

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Georgian CSOs work actively to advance anti-corruption reforms but the authorities have not been sufficiently responsive to their recommendations.

A number of CSOs focus on anti-corruption policy issues. They have conducted research in different areas of corruption prevention (including access to information, whistle-blower protection, asset disclosure, and public procurement) and have offered the government recommendations for improving relevant laws and practices.⁹²⁸ These CSOs have also issued joint statements, urging the government to implement a number of essential anti-corruption reforms.⁹²⁹

CSOs have monitored the Georgian Government's compliance with its anti-corruption commitments under different international instruments, including the EU Association Agenda,⁹³⁰ the OECD Anti-Corruption Network's Istanbul Action Plan,⁹³¹ and GRECO.⁹³² CSOs have also assessed the drafting and the implementation of Georgia's National Anti-Corruption Strategy and Action Plan.⁹³³

The effectiveness of CSO involvement in anti-corruption policy reform is often hampered by lack of cooperation from the authorities. For example, despite multiple calls by the CSOs, neither the Government nor the Parliament have considered the proposal to establish an independent anti-corruption agency. Moreover, in 2018, a group of CSOs addressed the prime minister, expressing their concern over the lack of cooperation from the Justice Ministry in the drafting of the country's Open Government Partnership (OGP) Action Plan.⁹³⁴

928 See, for example: Institute for Development of Freedom of Information, *Access to Public Information in Georgia*, 2018, <http://bit.ly/3734sFB>; Georgian Young Lawyers' Association, *State Secret Procurement Rule*, 2017, <https://bit.ly/36E0pPL>; Transparency International Georgia, *Whistleblower Protection - International Practice and Recommendations for Georgia*, July 2015, <http://bit.ly/38ibp5E>; Transparency International Georgia, *Gifts Received by Public Officials Need to Be Studied Further*, 7 March 2018, <http://bit.ly/3adRYNe>

929 Transparency International Georgia, *Georgian Government Must Take Effective Steps To Address Challenge of High-Level Corruption*, 10 December 2018, <http://bit.ly/30uPK7L>

930 Transparency International Georgia, *Georgia's Anti-Corruption Policy Fails To Fulfill Association Agreement and Association Agenda Commitments*, 11 June 2019, <http://bit.ly/360A914>

931 Transparency International Georgia, *Georgia's Stalling Anti-Corruption Reforms: Unfulfilled Recommendations of the Istanbul Action Plan*, 16 August 2019, <http://bit.ly/2NBc3DB>

932 Institute for Development of Freedom of Information, *70% of Recommendations Received by Georgia from GRECO about Corruption Prevention Remain not Fully Implemented*, 12 July 2019, <http://bit.ly/3afIT81>

933 Institute for Development of Freedom of Information, *IDFI's Proposals for the New Anti-Corruption Strategy and Action Plan 2019-2020*, 13 May 2019, <http://bit.ly/2R32YFD>

934 Georgian Young Lawyers' Association, *Address of the Non-Governmental Organization Members of the Open Government Partnership Forum to the Prime-Minister of Georgia*, 13 July 2018, <http://bit.ly/2RjRGvy>

BUSINESS

The law ensures simplicity of business registration and establishes a favourable environment for businesses to operate. However, in some cases, the authorities have exerted politically motivated pressure on business. Transparency of beneficial ownership of companies is not ensured. The involvement of business in anti-corruption policy is weak. Weak links between business and civil society impede implementation of joint initiatives (including anti-corruption initiatives).

Business Final score: 50.6			
Dimension	Indicator	Law	Practice
Capacity: 68.7	Resources	75	50
	Independence	100	50
Governance: 58.3	Transparency	75	50
	Accountability	75	50
	Integrity	50	50
Role: 25	Anti-corruption policy engagement		25
	Support for/engagement with civil society		25
Law and practice average scores		75	42.8

STRUCTURE AND ORGANISATION

Georgian economy is based on free market principles. The Constitution of Georgia provides guarantees of the freedom of economy.⁹³⁵ Furthermore, there is a special law On Economic Freedom⁹³⁶ which establishes additional guarantees for exercising economic rights. Business activities are regulated by many different laws, including the Law on Entrepreneurs⁹³⁷, the Tax Code⁹³⁸ and others. Business activities in Georgia are notable for low tax burden and few regulations which are, first and foremost, related to starting business activities, property registration and foreign trade.⁹³⁹

⁹³⁵ Constitution of Georgia, Article 6.

⁹³⁶ Organic Law on Economic Freedom.

⁹³⁷ Law on Entrepreneurs.

⁹³⁸ Tax Code of Georgia.

⁹³⁹ World Bank, *Rankings & Ease of Doing Business Score*, May 2019, <http://www.doingbusiness.org/en/rankings>

RESOURCES (LAW)

Score: 75

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

The Georgian legislation creates a favourable environment for the formation and operations of businesses. For years, the country has steadily maintained leading positions in the Ease of Doing Business score. As of 2019, Georgia is in the sixth position in the world in this respect.⁹⁴⁰

According to the same rating, Georgia also has one of the highest scores and rankings (2nd in the world) in the starting of business component. In this component, it is second only to New Zealand.⁹⁴¹ In Georgia, it is possible to register a company in two days, without a minimum financial requirement.

Property rights are protected by the Constitution of Georgia which stipulates that property can only be requisitioned in cases of public necessity directly envisaged by the law and on condition of fair compensation. Furthermore, the compensation is free from all taxes.⁹⁴²

The law allows the creation, if needed, of a special economic zone to which a special legal regime is applied, which first and foremost implies the creation of a favourable environment for business. For example, this kind of an economic zone exists in Anaklia.⁹⁴³

Various laws protect intellectual property. These include the Law on Copyright and Related Rights, the Patent Law of Georgia and the Law on Trademarks.

A constitutional provision which is assessed negatively as concerns resources for business states that agricultural land, as a particularly significant resource, can only be owned by the state, a local self-government entity, a Georgian citizen or an association of Georgian citizens.⁹⁴⁴ Correspondingly, this makes it more difficult for foreign citizens to invest into agriculture. This hampers attracting investments for this sector and diminishes the potential of agriculture as a business.

One of the recent changes that is worth mentioning is the pension reform which has become an additional tax burden for business. Specifically, a tax burden on employment has increased (effectively, the tax paid from salary has increased from 20 percent to 23.2 percent) which naturally makes the workforce more expensive and negatively affects employment.⁹⁴⁵

940 Ibid.

941 Ibid.

942 Constitution of Georgia, Article 19.

943 Ibid., Article 7.

944 Ibid.

945 Transparency International Georgia, *Ten Remarks on Pension Reform*, 1 March 2018, <http://bit.ly/2TwW90P>

RESOURCES (PRACTICE)

Score: 50

To what extent are individual businesses able in practice to form and operate effectively?

The mechanisms that exist at the level of the law are also implemented in practice of business establishment and functioning. However, there are certain circumstances which create an unfavourable environment.

The procedures of business registration are effectively implemented in practice. Investors also actively use the possibility of expedited procedures in exchange for paying a corresponding fee.⁹⁴⁶

Property rights, too, are mostly realised in practice. The public is not really aware of the instances of infringement upon property rights.⁹⁴⁷⁹⁴⁸ However, court proceedings related to property disputes are problematic, which is a problem for businesses. The court does not or cannot consider property rights disputes efficiently and within proper deadlines.⁹⁴⁹

The legal requirements related to the liquidation of companies are a problem for businesses as they cause the company liquidation process to continue for years. As a result, businessmen are forced to avoid the liquidation option, and many companies exist only on paper, without creating any wealth or influencing GDP.⁹⁵⁰ Furthermore, this prevents the country from obtaining a better position in the Doing Business rankings.⁹⁵¹

In terms of business resources, a small size of the economy, low purchasing capacity and a small market are a problem. The logistical issues related to export are also problematic (including geographic location and limited transport links with large markets). This prevents businesses from easily exporting their products.⁹⁵²

INDEPENDENCE (LAW)

Score: 100

To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?

Georgian legislation provides sufficient safeguards to prevent unwarranted interference in activities of private businesses.

Economic freedom is recognised by the Constitution. The basic law stipulates that “the state shall take care of developing a free and open economy, the free enterprise and competition”. It also says that “abolishing the universal right to private property shall be prohibited.”⁹⁵³

946 Interview with Giorgi Isakadze, Editor-in-Chief of Forbes Georgia, 19 July 2019.

947 Ibid.

948 Interview with Gigla Mikautadze, Executive Director of Taxpayers Union of Georgia, 19 July 2019.

949 Interview Giorgi Isakadze.

950 Ibid.

951 Interview Gigla Mikautadze.

952 Ibid.

953 Constitution of Georgia, Article 6.

The law provides for the freedom of enterprise. Monopolistic activities are prohibited except in cases permitted by law. Consumer rights are protected by law.⁹⁵⁴

The Constitution guarantees the right to “full compensation” through court for damage which resulted from unlawful actions by the state bodies.⁹⁵⁵ The Law on Control of Entrepreneurial Activities directly states that entrepreneurs have the right to receive compensation inflicted by unlawful inspection.⁹⁵⁶

The grounds and principles of state oversight of entrepreneurial activities are unambiguously stipulated by the law. The law requires that state bodies control entrepreneurial activities only in accordance with the rules established by the law. The law also establishes that such oversight can be implemented only by an oversight body and only based on a court decision. A judge can only issue a permission to inspect entrepreneurial activities when an oversight body presents information about an alleged violation of the law committed by the entrepreneur. In the event the court issues the permission, the oversight body has the right to inspect the entrepreneur only with regard to the issues indicated in the court decision. Prior to beginning the inspection, the oversight body is under the obligation to provide the entrepreneur with a written list of his/her rights and duties. If the oversight body inspected the entrepreneur, no other state body has the right to inspect this entrepreneur with regard to the same issue. The obligation to obtain court permission also applies to the state bodies which conduct the inspection of commercial enterprises within the framework of an investigation conducted by law enforcement bodies. The exceptions when no court permission is required to conduct an inspection are reasonable and include tax audit measures carried out by tax authorities and environmental inspections conducted by corresponding agencies.⁹⁵⁷

The rules of conducting tax audit are also reasonable. The law states that such inspections can only be carried out by a special tax body and the audit must not suspend normal activities of the enterprise. The taxpayer must be informed about the pending audit at least 10 days in advance. If the inspection is an immediate necessity, it can be carried out without prior notification. However, a permission issued by a judge is required to this end.⁹⁵⁸

The law contains provisions protecting taxpayers, too. Taxpayers have the right not to share their tax-related information with state bodies other than tax agencies, while tax authorities are under the obligation to keep the taxpayer-related information secret. Taxpayers have the right to appeal against the actions and decisions of the tax authority and refuse to comply with their demands which contradict the law. In addition, the law directly states that violation of taxpayers’ rights is a punishable action and gives taxpayers the right to demand compensation for damages inflicted upon them by unlawful actions and decisions of the tax authorities.⁹⁵⁹

There is a Staff of Business Ombudsman created in Georgia which oversees the protection of rights and lawful interests related to the implementation of entrepreneurial activities in the country. The goal of this institution is to uncover the instances of violation of these rights and lawful interests by the state and facilitate the restoration of entrepreneurs’ violated rights.⁹⁶⁰

954 Ibid., Article 26.

955 Ibid., Article 18.

956 Law on Control of Entrepreneurial Activities, Article 3.

957 Ibid., Articles 1, 3-5.

958 Tax Code of Georgia, Articles 262-265.

959 Ibid.

960 Law on Business Ombudsman of Georgia, Article 7.

INDEPENDENCE (PRACTICE)

Score: 50

To what extent is the business sector free from unwarranted external interference in its work in practice?

In practice, business is not completely free. The events that have unfolded in recent years have demonstrated that there have been instances of unwarranted interference in business activities.

The most high-profile recent “case of TBC Bank” was the most problematic one in terms of independence of businesses. The investigation that the Prosecutor’s Office launched into a case from 10 years ago against the founders of TBC Bank, Mamuka Khazaradze and Badri Japaridze, concerning money laundering and other unlawful actions and, at the same time, the attack against them on social networks carried out by the propaganda pages presumably working for the ruling party and a belated investigation of a cyberattack on the bank have created serious suspicions of the government’s unwarranted interference in business activities.⁹⁶¹

In the case of TBC Bank founders, especially alarming is Mamuka Khazaradze’s statement about a letter containing threats that he had received in the run up to the second round of the 2018 presidential election from then Minister of Internal Affairs Giorgi Gakharia who had insisted that Khazaradze fulfilled certain demands, threatening to otherwise damage his reputation both inside and outside the country.⁹⁶² In the same statement, Khazaradze talked about an orchestrated attack on the part of different branches of government.⁹⁶³ This case has once again created legitimate suspicions concerning indications of informal governance and a strengthening trend of state capture, which includes concentration of great power in the hands of the ruling party and informal groups of influential persons and their use of public institutions for the benefit of their private businesses and interests.⁹⁶⁴

Another indicator of pressure against business was the Omega case⁹⁶⁵ in which concerted actions by government representatives, influential persons connected to them and the court against the company were clearly visible. This case has demonstrated that the problems concerning the independence of courts threaten the independence of businesses as well.⁹⁶⁶

Another indicator of the lack of independence of businesses is the trend of campaign donations. Frequently, various legal entities or physical entities connected to various companies donate large amounts of money to the ruling party.⁹⁶⁷

In the opinion of economists, the weakness of state institutions is a significant problem for businesses. First and foremost, this implies courts and law enforcement bodies which have proved to be instruments of pressure in various high-profile cases. The processes that have unfolded in the country have demonstrated that, if a confrontation occurs with influential per-

⁹⁶¹ Transparency International Georgia, *An Investigation Launched against the Founders of TBC Bank Raise Many Questions*, 16 February 2019, <http://bit.ly/2Tfwbil>

⁹⁶² Transparency International Georgia, *Mamuka Khazaradze’s Statement Confirms Suspicions Regarding Signs of State Capture in Georgia*, 6 March 2019, <http://bit.ly/30eNRfg>

⁹⁶³ Ibid.

⁹⁶⁴ Ibid.

⁹⁶⁵ Transparency International Georgia, *Smoke of Corruption: The Grand Scheme to Allocate the Tobacco Market*, 3 October 2018, <http://bit.ly/2TvcW4y>

⁹⁶⁶ Ibid.

⁹⁶⁷ Transparency International Georgia, *Election Campaign Finances in Georgia: 2016 Parliamentary Elections*, 31 March 2017, <http://bit.ly/2FGFkbl>

sons, institutions cannot protect even the businessmen as big as the founders of TBC Bank. Correspondingly, this represents a negative message for all other businessmen who decide to fight against state representatives or influential figures using the power of the law.⁹⁶⁸⁹⁶⁹

TRANSPARENCY (LAW)

Score: 75

To what extent are there provisions to ensure transparency in the activities of the business sector?

The legislation mostly contains sufficient provisions to ensure transparency in the activities of the business sector but does not ensure accessibility of information on beneficial ownership of companies.

According to the law, the information related to enterprise registration is public and all interested persons can obtain it from the public registry whose area of competence covers enterprise registration.⁹⁷⁰

The law also regulates transparency of information about enterprises licensed by the National Bank. Specifically, an enterprise whose stocks can be traded on the Georgian stock exchange and whose number of partners exceeds 100 must present an annual audit report. To this end, the supervisory board of such an enterprise must invite an auditor legally and economically independent from this enterprise's directors and partners.⁹⁷¹

The National Bank has the authority to exercise oversight of the financial sector, including banks and non-banking depositary institutions. The National Bank has the right to inspect and audit them, also to suspend their license and impose sanctions. The National Bank is also authorised to implement oversight through stock exchange.⁹⁷²

Georgia has a special law whose goal is to prevent legalisation of illicit income and which creates an obligation for the Financial Monitoring Service as well as relevant enterprises to monitor suspicious deals and to record the information about them.⁹⁷³

Commercial banks are under the obligation to have an independent auditor conduct annual audit and prepare annual financial reports in line with the international accounting standards. The annual audit and financial reports must be presented to the National Banks and be published. In addition, the National Bank has the authority to audit commercial banks on its own or by means of contracted auditors.⁹⁷⁴

The legislation also contains additional provisions concerning companies which trade on the stock market. It is mandatory for such companies to publish and present to the National Bank their annual and semi-annual activity reports. The annual report must include an audit report. The National Bank can request additional information or ask companies to present special reports on specific issues. All these reports must be presented to the stock exchange where the given companies' stocks are traded. Members of the governing body of such companies

968 Interview with Giorgi Isakadze, Editor-in-Chief of Forbes Georgia, 19 July 2019.

969 Interview with Gigla Mikautadze, Executive Director of Taxpayers Union of Georgia, 19 July 2019.

970 Law on Entrepreneurs, Article 7.

971 Ibid., Article 13.

972 Ibid., Article 48.

973 Law on Facilitating the Prevention of Illicit Income Legalisation, Articles 3-6.

974 Organic Law on the National Bank of Georgia, Article 49.

must present to the National Bank and the stock exchange the information about the assets they own. Persons or groups of persons who make a “significant purchase” of securities must inform the National Bank and the stock exchange about such purchase.⁹⁷⁵

Enterprises operating in Georgia (except for small enterprises) have an obligation to use International Financial Reporting Standards (IFRS) adopted by the International Accounting Standards Board.⁹⁷⁶ In 2017, a state institution operating under the Ministry of Finance created an electronic portal for financial reporting; presenting financial and management reports there became mandatory for organisations of certain categories.⁹⁷⁷

It is problematic that the law does not ensure availability of information about beneficiary owners of offshore companies. Former Prime Minister Giorgi Kvirikashvili, at the London Anti-Corruption Summit in May 2016, undertook an obligation with regard to this issue – that Georgia would examine the expediency of creating a public registry of beneficial owners of companies.⁹⁷⁸ However, no action has been taken to this end so far.

TRANSPARENCY (PRACTICE)

Score: 50

To what extent is there transparency in the business sector in practice?

In practice, the business sector is partially transparent.

In accordance with the law, the National Agency of Public Registry has a database accessible online which contains general information about all registered enterprises. This includes information about the founders, shareholders and management.⁹⁷⁹

As required by the law, companies have started uploading their activity reports to the Financial Reporting Portal.⁹⁸⁰ The reports of some companies contain information about key financial indicators as well as information about corporate responsibility and external audit.⁹⁸¹ According to economists, this obligation is fulfilled mostly by large companies which consider it necessary to make the information about their corporate culture public.⁹⁸²

Locating information about the offshore companies operating in Georgia is problematic. The companies registered offshore do not publicise their charters, exact information about their owners’ identities, contractual provisions or other details in the public registries of the countries in which they operate. Correspondingly, the public has a limited possibility to check whose interests are backing a specific big business operating in the country which increases the risks of corrupt deals and potential cases of conflict of interest.⁹⁸³

975 Law on Securities Market, Article 8.

976 Law on Accounting and Financial Audit, Articles 2, 10.

977 Financial Reporting Portal, <https://reportal.ge/>

978 Transparency International Georgia, *Offshore Companies and Other Business Connections of Bidzina Ivanishvili*, 2 November 2018, <http://bit.ly/2RpyRYf>

979 Business Registry, <https://bit.ly/2VS7sTC>

980 Financial Reporting Portal, <https://reportal.ge>

981 Ibid.

982 Interview with Gigla Mikautadze, Executive Director of Taxpayers Union of Georgia, 19 July 2019.

983 Institute for Development of Freedom of Information, *Offshore Companies in Georgia - Risks and Recommendations*, 19 April 2016, <http://bit.ly/2No7Ra2>

ACCOUNTABILITY (LAW)

Score: 75

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?

Georgian legislation contains certain norms which regulate oversight of the business sector and corporate governance of individual companies.

According to the law, companies must hold general meetings of partners at least once a year. Any decision outside a company's routine activities needs to be agreed with the general meeting. The general meeting makes decisions on issues such as changes to a company's charter, establishment of a branch, approval of annual results, selection of an auditor as well as reorganisation and liquidation of an enterprise.⁹⁸⁴

All partners of an enterprise have the right to receive copies of annual reports and other documents of the enterprise, request explanations concerning these documents and to have them audited.⁹⁸⁵ Partners of some types of enterprises (general partnerships) have the right to personally check the enterprise' accounting books and papers and demand that other partners fulfil their obligations before the enterprise.⁹⁸⁶ Owners of at least 5 percent of shares in joint stock companies have the right to request the audit of the enterprises' economic activities or a special audit of the annual balance as a whole if they think that irregularities have taken place. They also have the right to request that the enterprise management body provide them with copies of agreements signed on behalf of the enterprise and information about the agreements to be signed.⁹⁸⁷

Banks and joint stock companies whose securities are allowed to be traded on stock exchange as well as the companies which have more than 100 partners are under the obligation to set up a supervisory board whose members are elected by the general meeting of partners. A company's supervisory board must control the activities of directors and is authorised to audit the company's financial documents, reports and assets. Directors also have an obligation to present annual reports to the supervisory board.⁹⁸⁸

ACCOUNTABILITY (PRACTICE)

Score: 50

To what extent is there effective corporate governance in companies in practice?

Little information is available about the corporate governance of business companies in Georgia. However, given the information that is available, corporate governance is inefficient.

In the Global Competitiveness Report 2017-2018, Georgia occupies 92nd place in terms of efficiency of company supervisory boards,⁹⁸⁹ which is quite a low indicator and points at problems with regard to the corporate governance in Georgian companies.

984 Law on Entrepreneurs, Article 9.

985 Ibid., Article 3.

986 Ibid., Article 53.

987 Ibid.

988 Ibid.

989 World Economic Forum, *The Global Competitiveness Report 2017-2018*, p. 125, <http://bit.ly/2kXRV3g>

In general, there is a low quality of the corporate government culture in the Georgian business sector. However, the situation is changing and companies which aim to grow are trying to improve their corporate governance, making it more flexible and accountable.⁹⁹⁰

There is a lack of information about internal regulations within companies concerning integrity and other issues.⁹⁹¹

INTEGRITY (LAW)

Score: 50

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

There are certain mechanisms in the legislation which ensure the integrity of the business sector representatives.

Bribery in the private sector (both giving and accepting bribes) is a punishable offence according to the Criminal Code, envisaging up to six years' imprisonment.⁹⁹² The Criminal Code also establishes a penalty for legalisation of illicit income and unlawful contracts made within the domain of public procurement. The Code also contains provisions concerning criminal responsibility of legal entities.⁹⁹³ Legal entities (including commercial legal entities) are liable for the offences committed by their legal representatives on their behalf, using them or to benefit them. The sanctions that can be imposed on legal entities include enterprise liquidation, license termination, a fine and confiscation of assets.⁹⁹⁴

The law contains several norms which establish general rules of integrity for company heads. For example, a company head is not allowed to hold a similar position in another company of the same type without the company partners' consent. The law requires that company directors and members of their supervisory boards act in accordance with the principles of integrity. Company directors do not have the right to use for personal gain the information they obtained through their post except for the cases when the company partners give their consent to do so.⁹⁹⁵

The law establishes mandatory integrity rules for the companies whose securities are allowed to be traded on the stock exchange. Members of the governing body of such companies must act with integrity and with the belief that their action is the best possible one for the interests of the enterprise and of the owners of its stocks. In the event these requirements are not fulfilled, the owners of the enterprise securities have the right to file a lawsuit against members of the governing body. Members of the governing body must inform the supervisory board of the enterprise about signing any deals which may produce a conflict of interest for them in which case they are not allowed to participate in the vote. Furthermore, the enterprise must inform the National Bank about the deals which include a conflict of interest and ensure that this information is published on its own or the stock exchange website.⁹⁹⁶

990 Interview with Gigla Mikautadze, Executive Director of Taxpayers Union of Georgia, 19 July 2019.

991 Interview with Giorgi Isakadze, Editor-in-Chief of Forbes Georgia, 19 July 2019.

992 Criminal Code of Georgia, Article 221.

993 Ibid., Article 194.

994 Ibid., Article 107.

995 Law on Entrepreneurs, Article 9.

996 Law on Securities Market, Article 16.

On the negative side, a 2018 survey found that only one-fifth of companies had codes of ethics.⁹⁹⁷

The Georgian legislation does not prohibit persons indicted for corruption and fraud from participating in public procurement. The only way to prevent such problems is “blacklisting” such companies thus preventing them from participating in public procurement for one year. However, the owners of the blacklisted companies can set up a different company and participate in public procurement this way, or by becoming a subcontractor with the blacklisted company.⁹⁹⁸

INTEGRITY (PRACTICE)

Score: 50

To what extent is the integrity of those working in the business sector ensured in practice?

The integrity of the private sector in practice is not sufficiently ensured in practice.

In the Global Competitiveness Report 2017-2018, Georgia ranked 66th among 140 countries in terms of the observation of the norms of ethics by the companies operating in the country.⁹⁹⁹ In this rating, Georgia is 112th with regard to the protection of small shareholders in companies.¹⁰⁰⁰

Sixteen companies from the Georgian private sector have signed the UN Global Compact whose missions include responsible business and endorsement of anti-corruption activities.¹⁰⁰¹

The issue of business integrity is to a certain extent related to the issue of campaign donations. There have been cases in recent years when businesses allegedly committed violations when donating large sums of money to the ruling party. For example, in the run up to the 2018 presidential election, the staff of two private clinics donated a total of over GEL 100,000 to Salome Zurbashvili – the candidate backed by the ruling party.¹⁰⁰² It was reported that the employees were tasked by the administrations to do so. This raised questions concerning donations made via third party, which is a violation of the law.¹⁰⁰³

997 Caucasus Research Resource Centers - Georgia, *Attitudes towards Corporate Social Responsibility and Civil Society Organizations*, 2018, <http://bit.ly/30hksRD>

998 Transparency International Georgia, *Persons Convicted of Corruption and Fraud should be Restricted from Participating in Public Procurement*, 19 November 2018, <http://bit.ly/2R5Pc3O>

999 World Economic Forum, *The Global Competitiveness Report 2017-2018*, p. 125, <http://bit.ly/2kXRV3g>

1000 Ibid.

1001 The United Nations Global Compact, List of Participants: <http://bit.ly/2kYBL9R>

1002 Transparency International Georgia, *Some Donors of Salome Zurbashvili Seem to be Questionable*, 11 October 2018, <http://bit.ly/2Rqntv1>

1003 Ibid.

ANTI-CORRUPTION POLICY ENGAGEMENT (LAW AND PRACTICE)

Score: 25

To what extent is the business sector active in engaging the domestic government on anti-corruption?

The business sector is a passive participant in anti-corruption policy. However, in recent years, some steps in this direction have been taken.

The fourth round monitoring report of the OECD Anti-Corruption Network for Eastern Europe and Central Asia noted passive cooperation between the state and the business sector in the area of managing anti-corruption policy.¹⁰⁰⁴ In addition to the fact that the state did not take adequate steps to involve businesses in anti-corruption activities, the business sector itself did not attempt to obtain leadership in this regard either.

According to the recommendations in this report¹⁰⁰⁵, certain steps were taken by the Competition Agency which, based on a recommendation, investigated business integrity risks at the market of air transportation.¹⁰⁰⁶ Furthermore, it conducted seminars on business integrity in which private sector representatives participated as well.¹⁰⁰⁷ The same report says that examining business integrity in one specific area of business is not sufficient and that the focus must be expanded.¹⁰⁰⁸

The State Procurement Agency, too, has taken certain steps to promote business integrity. Private sector representatives also participated in the meetings and consultations which it had organised, and which mainly concerned a fair conduct of public procurement.¹⁰⁰⁹

Representatives of the business sector have been invited to the Anti-Corruption Council created under the Ministry of Justice.¹⁰¹⁰ Apart from such instances, the public and the economists do not know many examples of cooperation between businesses and the government or about any significant progress in terms of combating corruption.¹⁰¹¹

SUPPORT FOR/ENGAGEMENT WITH CIVIL SOCIETY (LAW AND PRACTICE)

Score: 25

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?

The support that Georgia's business sector offers to the civil society in terms of combating corruption is weak. There are virtually no examples of businesses helping the civic sector in this area.

1004 OECD Anti-Corruption Network (ACN), *Anti-Corruption Reforms in Georgia - Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, 15 September 2016 p. 89, <http://bit.ly/2kyyFJl>

1005 Ibid.

1006 OECD Anti-Corruption Network (ACN), *Istanbul Anti-Corruption Action Plan Fourth Round of Monitoring Progress Update (on Georgia)*, 13 September 2017, p. 49, <http://bit.ly/2mt3mR8>

1007 Ibid.

1008 Ibid.

1009 Ibid.

1010 Anti-Corruption Council - <http://justice.gov.ge/Ministry/Index/170>

1011 Interview with Giorgi Isakadze, Editor-in-Chief of Forbes Georgia, 19 July 2019.

According to the 2017 Civil Society Organisations Sustainability Index, foreign governments and development agencies are the main sources of funding for the Georgian civil society organisations.¹⁰¹² There is no information about alternative sources of funding. Businesses are not involved in this respect and the lack of trust towards the civil society has been indicated as one of the reasons.¹⁰¹³

The same report states that the current Georgian legislation does not encourage philanthropy and is unfavourable for economic activities of the civil society.¹⁰¹⁴

According to the study, philanthropy and corporate responsibility are weak in Georgia. Among 568 surveyed companies, only 8 percent have done a project in cooperation with a civil society organisation. Some 20 percent are not even aware of the meaning of this idea.¹⁰¹⁵

1012 United States Agency for International Development (USAID), *2017 Civil Society Organization Sustainability Index - For Central and Eastern Europe and Eurasia*, 21st Edition, September 2018, p. 91, <http://bit.ly/2m04fjY>

1013 Ibid.

1014 Ibid.

1015 European Union, *EU Roadmap for Engagement with Civil Society in Georgia (2018 - 2020)*, 18 December 2018, <http://bit.ly/2Tqiih4>

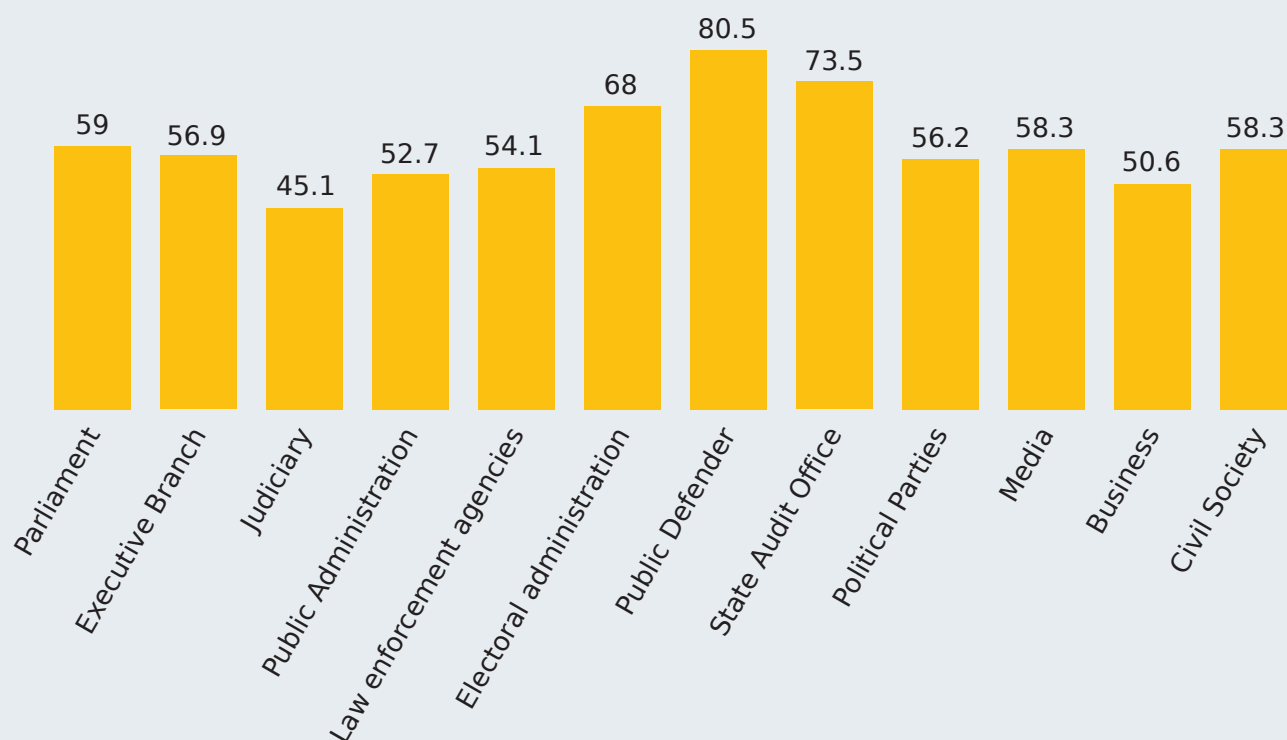
CONCLUSIONS AND RECOMMENDATIONS

The NIS approach is based on the presumption that preventing corruption and promoting good governance in a country requires effective operation of all key institutions. It is therefore important to assess the state of each institution, while also analysing the impact of the problems in each institution both on the operation of this particular institution as well as on other institutions and the system as a whole.

The graph below presents the final score of every NIS institution which is based on the qualitative analysis presented in the relevant chapters and the quantitative presentation of the results of that analysis.

According to the assessment results, only three of the 12 NIS institutions have a high or relatively high final score: the Public Defender, the State Audit Office, and the Electoral Administration. The Judiciary has the lowest total score.

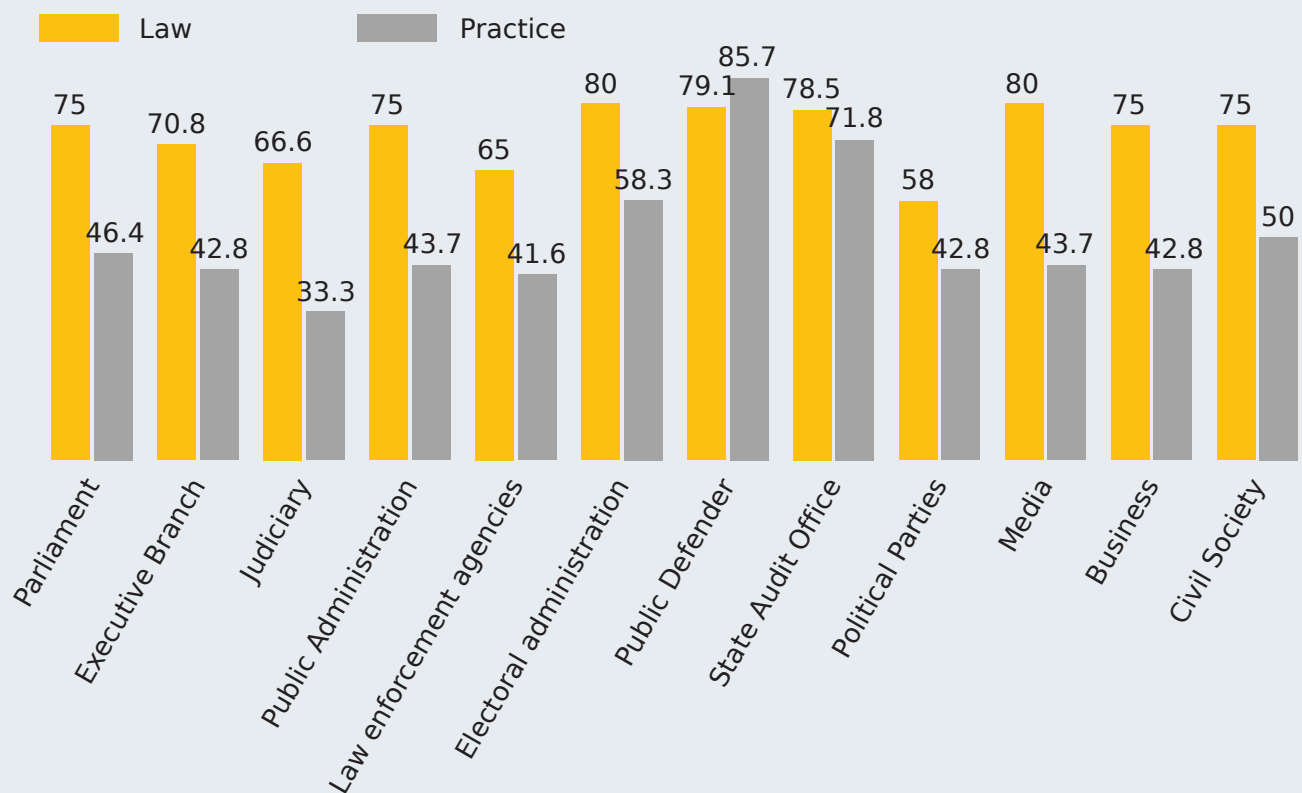
GEORGIAN NATIONAL INTEGRITY SYSTEM 2020



NIS final scores.

The final scores of the institutions reflect the results of the analysis of both the practice and the law. Meanwhile, if we look at the results of the assessment of the practice and the law separately, we will see that, in a majority of the institutions, the final score for practice is significantly lower than the final score for law, which points to serious problems in terms of the application of the legal framework. This problem is evident in every institution except for the Public Defender and the State Audit Office.

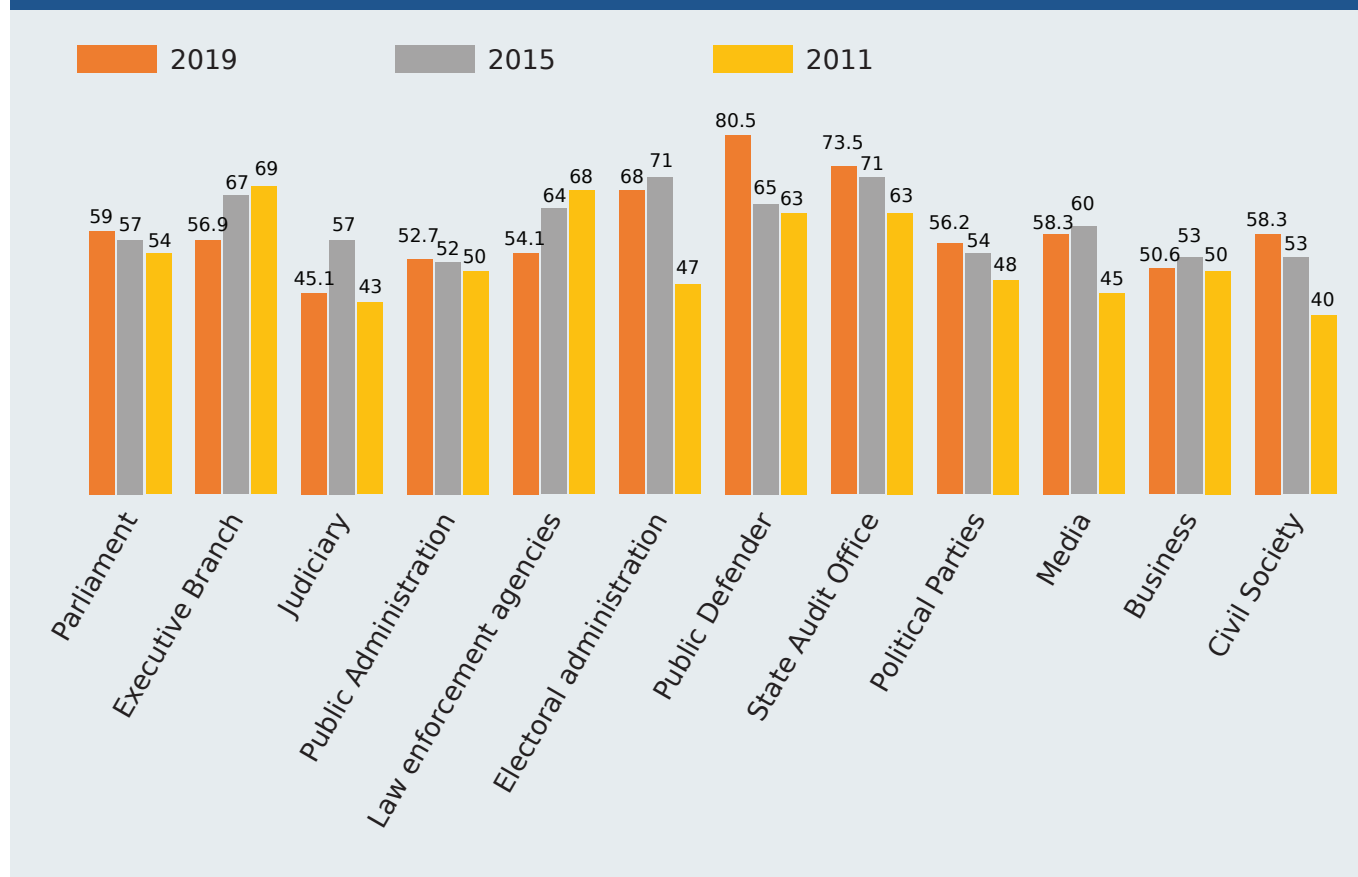
LAW VS PRACTICE



NIS institution final scores for law and practice.

Previous Georgian NIS assessments were published in 2011 and 2015. Compared with 2015, the final scores of the Government, the judiciary, and the law enforcement agencies have decreased significantly, while only the Public Defender has made significant progress.

NIS 2019, 2015, 2011



Interaction between institutions

In terms of the interaction between the institutions, the low level of independence of the Parliament and the judiciary should be mentioned first and foremost, as it reduces their ability to exercise effective oversight of the government's and the law enforcement agencies' activities and therefore has a negative impact on the accountability of these institutions.

The Parliament's problems, meanwhile, stem largely from an extremely high degree of the concentration of power and the ruling party's almost total control over a majority of public institutions. This state of affairs is linked largely to low political competition which is caused by the ruling party's privileged access to resources, as well as the inability of the State Audit Office and the law enforcement agencies to deal effectively with violations of campaign financing rules and voter bribing.

Political competition is also undermined by the growing pressure from the authorities on the media and business.

Strengthening the NIS: priorities for the coming years

The findings of this report indicate that weak checks and balances are currently the primary challenge of the Georgian NIS. This is the result of the insufficiently competitive political environment and the undue partisan and informal influence on the system's main institutions.

The efforts to strengthen the NIS must, therefore, focus in the coming years on the eradication of this undue influence and the promotion of political competition. This will create favourable conditions for genuine independence of the system's main institutions and their effective operations.

Main findings and recommendations for each NIS institution are presented below.

NIS institutions: positive findings, problems, and recommendations

Parliament	
Positive findings	• A strong legal framework for the Parliament's independence, transparency, accountability and the parliamentary oversight of the executive branch.
Main problems	• Low level of the Parliament's independence and the weakness of the parliamentary oversight of the executive branch in practice. • A weak link between the Parliament members and the voters, and insufficient involvement of the public in the discussion of the legislative issues. • Violation of anti-corruption legislation by the Parliament's members and the fact that such violations are not addressed. • Weak mechanisms for the enforcement of the parliamentary Code of Ethics. • The Parliament's insufficient activeness in terms of improving anti-corruption legislation.

Recommendations	• Informal influence over the Parliament's members must be eliminated. • A reform of the electoral system must be implemented in order to ensure a more pluralistic composition of the Parliament. • The parliamentary opposition's role must be reinforced in the process of parliamentary control and the appointment of the heads of the bodies accountable to the Parliament. • Parliamentary control of the security agencies must be strengthened. • The Parliament's members must improve their communication with the voters and ensure citizen involvement in the discussion of legislative issues. • The Parliament must address effectively the possible cases of violation of anti-corruption legislation by its members. • Effective mechanisms must be created for addressing violations of the parliamentary code of ethics. • The Parliament must devote greater attention to the improvement of the country's anti-corruption legislation and system.
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Executive branch	
Positive findings	• The legal framework ensures the government's independence and accountability. • The legal framework contains important provisions designed to prevent conflict of interest and corruption in the government. • The government receives appropriate level of funding in practice.
Main problems	• Due to informal external influence over the government, the level of its independence is low in practice. • Due to the weakness of parliamentary oversight, the level of the government's accountability is low in practice. • Possible cases of corruption in the government are not addressed effectively. • The government does not engage in sufficient efforts to establish an independent civil service and to combat corruption in public administration.

Recommendations	• Informal influence over the government must be eradicated. • The government must become genuinely accountable to the Parliament. • The law enforcement bodies must effectively investigate the cases of possible violation of anti-corruption legislation by government members. • The government must work more actively to reform the civil service and to eradicate corruption in public administration, as well as demonstrate the political will to establish a genuinely independent civil service.
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Judiciary	
Positive findings	• The legislative framework largely ensures the judiciary's independence, transparency, accountability, and integrity.
Main problems	• The judiciary is not independent in practice: External actors wield undue influence over the judiciary, while, within the judiciary, a single group (the so-called clan) exerts pressure on other judges. • Some important decisions in the judiciary are made through an opaque process. These include judicial appointments. • The accountability of judges for possible violations of the law is not ensured. • Rulings passed by judges often lack reasoning. • There are signs of corruption in the judiciary. • Due to its lack of independence, the judiciary is incapable of exercising effective oversight of the executive branch.
Recommendations	• The members of the judiciary's influential group of judges (the clan) and the judge members of the High Council of Justice must be dismissed from the system. • Court chairpersons must be elected by the judges of the respective courts. • The law must prohibit High Council of Justice members from holding other administrative positions. • The High Council of Justice must work more transparently, the process of judicial appointments must be public, and the decisions must be made through an open vote and include reasoning.

Public administration	
Positive findings	• The legal framework contains important provisions designed to ensure independence, transparency, accountability and integrity of the public administration.
Main problems	• The public administration is not independent in practice due to undue political influence on its activities. • The level of transparency is uneven across the public administration. • The enforcement of the legislative provisions designed to prevent corruption in the public administration is weak. • Despite positive reforms, significant corruption risks persist in the public procurement system.
Recommendations	• Reforms must be implemented in order to protect civil servants from undue political influence. • The freedom of information law must be adopted and a specialized institution must be established to ensure the enforcement of the law. • An effective mechanism must be established for the enforcement of the anti-corruption legislative provisions. • The share of simplified procurement in public procurement must be reduced. Individuals and companies convicted for corruption must be banned from participating in public procurement. • The law enforcement agencies must address effectively the publicized cases of possible corruption in public procurement.

Law enforcement agencies	
Positive findings	• The legal framework contains important provisions designed to ensure the independence, accountability, and integrity of the law enforcement agencies. • The level of funding allocated to the law enforcement agencies is consistently high.

Main problems	• The level of independence, transparency, accountability, and integrity of the law enforcement agencies is low in practice. • The law enforcement agencies are unable to effectively respond to possible cases of high-level corruption.
Recommendations	• Any type of undue interference in the activities of the law enforcement agencies must cease. • The legal safeguards for the prosecutors' independence must be strengthened. • Transparency of the law enforcement agencies must be ensured. • Effective investigation of the possible crimes committed by members of the law enforcement agencies (including corruption-related crimes) must take place.

State Audit Office	
Positive findings	• The legal framework contains important provisions designed to ensure the independence, accountability, and integrity of the State Audit Office. • The level of the State Audit Office's transparency, accountability, and integrity is high in practice. • The State Audit Office works actively in terms of auditing public agencies.
Main problems	• The State Audit Office's monitoring of political party finance is ineffective, especially during electoral campaigns. Lack of resources might be one of the reasons for this. • Public agencies frequently fail to implement the State Audit Office's recommendations.
Recommendations	• The State Audit Office must receive the necessary resources to properly fulfil its mandate. • The State Audit Office must respond effectively to all violations of the political party and campaign finance rules. • Public agencies must devote greater attention to the implementation of the State Audit Office's recommendations.

Electoral administration	
Positive findings	• The level of the electoral administration's transparency is high both in law and in practice. • The electoral administration mostly performs well in terms of organizing elections.
Main problems	• There are significant shortcomings in terms of the professionalism of PEC members. • Some of the electoral administration's decisions raise questions regarding its independence. • Election-related complaints are not always considered properly in practice. • In recent years, there have been possible cases of favouritism and nepotism in the selection of PEC and DEC members.
Recommendations	• The CEC must devote greater attention and resources to the training of PEC members. • Strong safeguards for the electoral administration's independence must be established, among other things, through a reform of the rules concerning the appointment of its members. • The electoral administration and the courts must ensure proper consideration of all complaints.

Public Defender	
Positive findings	• The legal framework largely ensures the independence, transparency, accountability, and integrity of the Public Defender's office. • The levels of the Public Defender's independence, transparency, accountability, and integrity are also high in practice. • The Public Defender actively utilizes the office's legal powers and effectively reacts to the possible violations of human rights. • The Public Defender prepares and publishes recommendations designed to improve the state policy on human rights and the operation of public institutions.

Main problems	- Public officials have engaged in aggressive verbal attacks against the Public Defender, while radical groups have made threats against the Public Defender. - Public agencies do not always follow the legal requirement to collaborate with the Public Defender and to assist the Public Defender's work, while also frequently failing to follow the Public Defender's recommendations.
Recommendations	- Public officials must refrain from attacking the Public Defender, while the law enforcement agencies must respond effectively to every instance of threats against the Public Defender and obstruction of the Public Defender's work. - Public agencies must collaborate with the Public Defender as required by the law and follow the Public Defender's recommendations as much as possible.

Political parties	
Positive findings	- The legislation ensures that establishment and registration of political parties is simple. - The legislation protects parties from undue interference in their activities. - The law contains important provisions designed to ensure the accountability and transparency of political parties (including transparency of their financing). - The financing of political parties is largely transparent in practice.
Main problems	- Instances of violence against the members and activists of opposition parties are often not addressed effectively. - The law enforcement agencies and the courts sometimes apply the law selectively against representatives of opposition parties. - Major inequality between the ruling party and the opposition parties in terms of resources reduces political competition. - The ruling party's accountability is not ensured in practice: There is often no effective response to the possible violations of the financing rules. - Internal democratic governance procedures of the parties are weak. - The parties' link with the broader public is weak.

Recommendations	• The law enforcement agencies must respond effectively to every instance of violence and threats against opposition party members and activists. • The law enforcement agencies and the courts must refrain from applying the law selectively against representatives of opposition parties. • The State Audit Office and the law enforcement agencies must respond effectively to the possible violations of party finance rules. • Political parties must undertake to develop internal democracy and links with the broader public.
Media	
Positive findings	• The law ensures that establishing and registering media is simple. • The law contains important provisions designed to ensure the independence of media. • The media work actively to expose instances of corruption and to inform the public about them.
Main problems	• A majority of the media face significant problems in terms of stable long-term access to resources (especially funding). • Due to political influence, the level of editorial independence is low in most of the influential media (including the Public Broadcaster) in practice. • The justice and law enforcement systems are being used to change the owners of the media that are critical of the authorities or to exert pressure on such media. • The level of funding transparency in online media is low in practice. • There are frequent violations of journalist ethics norms, as well as deliberate dissemination of disinformation via social media - inter alia, by groups linked with the authorities. • There are frequent cases of intimidation of journalists, as well as unlawful interference in and obstruction of their work, and the authorities do not respond to these as they are required to do by the law. • Political influence and polarization are reducing the ability of the media to provide citizens with reliable information about the government's work and political events.

Recommendations	• The authorities must refrain from interfering in the media's work and must ensure the Public Broadcaster's independence. • The media must respect the norms of journalist ethics and develop effective self-regulation mechanisms. • The media must ensure unbiased coverage of political issues (including electoral campaigns), and refrain from resorting to hate speech and disseminating disinformation.
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Civil Society	
Positive findings	• The legal framework ensures simplicity of establishing CSOs and their independence. • NGOs work actively to ensure the government's accountability.
Main problems	• The funding of CSOs is not sufficiently diversified and they depend almost entirely on foreign donor support. • Transparency and accountability mechanisms are weak in some CSOs. • Government and ruling party members often resort to aggressive verbal attacks against the civil society. The authorities have organized disinformation campaigns against CSO members. • The authorities often fail to devote sufficient attention to CSO research and recommendations.
Recommendations	• The authorities and the ruling party must refrain from attacking the civil society and cease the attempts to discredit nongovernmental organizations. • The authorities must ensure effective participation of CSOs in the discussion of important issues of public policy. • CSOs must undertake to ensure the transparency of their work and diversification of their funding.

Business	
Positive findings	• The law ensures simplicity of business registration and establishes a favourable environment for businesses to operate (for example, through the simplicity of the tax system). • The law largely ensures transparency and accountability of business.
Main problems	• In some cases, the authorities have exerted politically motivated pressure on business. • Transparency of beneficial ownership of companies is not ensured. • The involvement of business in anti-corruption policy is weak. • Weak links between business and civil society impede implementation of joint initiatives (including anti-corruption initiatives).
Recommendations	• The authorities must refrain from using the justice system for politically motivated pressure on business. • The law must make it mandatory for companies to publish information regarding their beneficial owners. • The authorities must collaborate more actively with the private sector in combating corruption. • The private sector and the civil society must collaborate in combating corruption.

