



Work Card

Autumn 2011

This is Transparency International Georgia's second Work Card on Georgia. It provides updates on the issues of our first work card and gives a summary assessment of the key areas in the country that are of crucial importance to the development of a transparent, accountable and democratic state. The Work Card will be published quarterly, covering different issues that are crucial for that specific period. At present, the key areas are **Chamber of Control activities, amendments to the law on Assemblies and Manifestations and privatization issue.**

The assessments are followed by concrete recommendations for improvements. They are in no way meant to be exhaustive, but provide a brief overview of areas in need of further attention.

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Update on Previous Topics

Election Environment

- The ruling party, United National Movement (UNM), has **introduced a new electoral code to parliament, increasing the number of members of parliament from 150 to 190** (107 proportional and 83 majoritarian). According to the draft law, the **system will still be based on the winner-takes-all concept**. It allows a party with for example only 35% of the voters' support to gain 70-80% of the seats in the Parliament. New system will **not support the principle of equal weight of votes**. The new election code does not envisage voter marking procedures on the election day, there will be no CCTV cameras at polling stations to prevent the violations. Thresholds for the individual and private donations are to be raised to GEL 60,000 and 200,000 respectively. Additionally, under the new Electoral Code, companies with the state share of up to 50 percent will be able to make donations to political parties (under the old Electoral Code, all companies with state shares were prohibited from making donations to political parties).
- The new election code will not result an actual improvement of the country's election environment. In spite of plans to include mechanisms to avoid the misuse of administrative resources in the pre-election by creating inter-agency groups and commissions, there are still significant gaps in the legislation. It lacks special mechanisms that would ensure better transparency and accountability in the party financing system.

Media environment

- The **management rights of the state-owned entity Alpha-Com**, which operates all of Georgia's broadcasting stations that transmit signals for radios, television stations and telecommunication companies, have been **sold for a four-year term in a problematic privatization** (see section on privatizations below for more details).
- In recent months, several events highlighted the **difficult working environment for media workers**. During the protests in May, journalists were attacked, staff at a new local online outlet in Dusheti were intimidated and threatened by local government officials,[#] and three photojournalists were arrested and charged with espionage for Russia in July, and released after several weeks after signing a plea-bargaining agreement.

Property Rights

- Registration of land plots is still restricted in those touristic zones, where the government is carrying out or planning to start big infrastructural projects.
- **No effective and fair compensation schemes for victims of property rights violations** have been developed.

Competition in Georgia

- Over the next weeks, Parliament will be discussing a **new competition law** that envisages the merger of the State Procurement Agency with a new, strengthened competition watchdog agency.
- A new regulation in Georgia recently created a **near-monopoly among meat processors** by requiring all meat retailers in the country to buy their meat from only two butcheries that met new hygiene standards, causing the price of meat to increase sharply, with some government officials alledging that the EU coerced this decision on the government -- this interpretation was rejected by the European Commission.



In Focus

1. Freedom of assembly

Legal framework

- **Freedom of assembly in Georgia is guaranteed by the constitution** (Chapter II, article 25). There is also the **Law on Assemblies and Manifestations**.
- The Law on Assemblies and Manifestations has been amended eight times since 1997. The **most recent amendment, initiated by the ruling party in 2011**, aims at implementing the decision of the [Constitutional Court](#), which had found previous amendments unconstitutional, and to take into consideration the relevant Guidelines of the [Venice Commission](#).
- An administrative body **may ban manifestations within a 20-meter radius from the entrance of a government building**, if the manifestation obstructing the respective institution's functioning. Around military units and objects, the radius is 100-meter. However, a definition of obstruction of a government institution is the institution's function is not provided by the law. If a demonstration violates the law, its organizer is obliged to call on protesters to stop the violation within 15 minutes.
- The law forbids possession of items that may pose a threat to a person's health. Recent amendments to the Criminal Code establish criminal responsibility for the creation, leadership of and participation in an illegal group. A group is illegal if its members are armed with equipment/objects which may be used to harm or destroy a person or an object. This gives the **state broad discretion to declare any assembly unlawful and to hold its participants criminally responsible**.

Freedom of assembly in practice

- There were **several large manifestations organized by opposition parties in 2007, 2009 and 2011**. When dispersing protests in January and spring 2011, police used excessive force against the demonstrators -- there was no proper investigation. Other relatively small manifestations have been organized over the past years by different groups. In the majority of cases the manifestations went well but there have also been **cases where the police raided the manifestations and arrested demonstrators**.

Recommendations

- There must be a **case-by-case decision from the government's side of whether the cost of partial limiting the rights of demonstrators outweighs the benefit of limiting the freedom of expression**. The definition of items that are banned at manifestations and the definition of illegal groups should be made clearer. There should be **clear criteria to assess whether the functioning of an administrative body is hampered or not**.
- The **government should conduct transparent and proper investigations into all alleged cases of violations of the law conducted by the police during past manifestations**.

2. Chamber of Control

Background



- The Chamber of Control of Georgia (CCG) is **the country's supreme audit institution**, responsible for overseeing the use of state funds and other state resources and authorised to propose amendments to the tax legislation. The CCG chairperson is appointed by parliament and **reports to the legislature**. The CCG presents to parliament its **reports on the implementation of the state budget by the executive branch** twice a year.

Reform

- The CCG did not undergo substantial reform immediately after the 2003 Rose Revolution. A **genuine reform began in 2008** when new leadership was appointed and a new law was adopted. The reform aims to transform the CCG from a Soviet-type agency into a modern supreme audit institution, primarily by **establishing new management structure, improving its human resources** (offering training opportunities to current and new employees, as well as hiring new ones) and **adopting new guidelines** (including a financial audits manual and a code of ethics for staff).
- The reform has yielded **some tangible results** as the **CCG findings concerning irregularities in several government ministries resulted in prosecutions in 2010**.

Current Challenges

- The CCG **still requires additional number of highly-qualified auditors** to conduct a comprehensive review of the government's spending.
- **The CCG cannot conduct an effective review of internal audits in government agencies since these agencies are still in the process of setting up internal audit departments**. Also, the CCG is **only scheduled to begin conducting effectiveness audits in 2012**.

Recommendations

- The CCG should increase its capacity by getting the **necessary human resources**, especially in the light of the scheduled start of effectiveness audits in 2012.
- The government must **ensure proper functioning of internal audit units in public agencies**.
- **Donors should continue their assistance to the CCG**.

3. Privatizations

Background

- The Georgian **government continues the privatization of state-owned companies, real estate and land plots**. Objects are often privatized through a competitive process and are put for electronic auction at eauction.ge. More than 1,100 companies are still state-owned.
- There have been **several problematic privatizations with few bidders participating in the auction process, often because the bidding period is inappropriately short and/or there is a lack of information about contractual obligations for investors and/or a lack of documentation on the assets that are sold**. One example of this is the recent privatization of Alpha-Com. The winning entity, Golden Com, was in addition set up only a week before the privatization process was announced and was the only bidder in the auction.
- There are cases where state property is directly given to a company owned by individuals or newly created entities without a competitive process. For example, the **Tbilisi Mayor's Office, in frame of its plan to hand over city parks to private companies with a long-term management lease**, has already given Mushtaeti Park to a private company (Geo Gold) which is fully owned by a member of the Tbilisi City Council.



- In case of high-profile and strategic privatisation projects, it is difficult, at times impossible, to get relevant information on privatization contracts and obligations of investors from the relevant agency.

Recommendations

- All **privatizations** carried out by government entities **should be conducted through a competitive bidding process**. **Sufficient time** (at least 4 to 6 weeks depending on the size of the project) **should be given to potential bidders**, allowing them to evaluate a project, to develop a business plan and secure necessary financing. Sufficient documentation on assets that are privatized should be provided in order to avoid an unfair advantage for insiders. Longer periods and better documentation would allow for more competitive and fair process, which might attract more international bidders, resulting in higher revenues for the state.
- Integrity rules set out in the **Law On Conflict of Interest and Corruption in Public Service** **should be extended to members of city councils**.
- The **Chamber of Control** **should pro-actively examine how the Ministry of Economy supervises investors' contractual obligations** and verify if selected successful bidders who won privatization contracts that included a mandatory investment have fulfilled all their commitments.