

GEORGIA NATIONAL INTEGRITY SYSTEM ASSESSMENT 2015



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Georgia National Integrity System Assessment 2015



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ABOUT THE NIS ASSESSMENT

The National Integrity System assessment approach used in this report provides a framework to analyse the effectiveness of a country's institutions in preventing and fighting corruption. A well-functioning NIS safeguards against corruption and contributes to the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. When the NIS institutions are characterised by appropriate regulations and accountable behaviour, 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 Georgia NIS country report addresses 12 “pillars” or institutions believed to make up the integrity system of the country.

Government	Public sector	Non-governmental
1. Legislature 2. Executive 3. Judiciary	4. Public Administration 5. Law Enforcement Agencies 6. Electoral Management Body 7. Ombudsman 8. Supreme Audit Institution	9. Media 10. Civil Society 11. Political Parties 12. 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.

Dimension	Indicators (<i>law, practice</i>)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	<i>Between 1 and 3 indicators, specific to each pillar</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. In order to take account of important contextual factors, the evaluation of the governance institutions is embedded in a concise analysis of the overall political, social, economic and cultural conditions, the *foundations*, on which these pillars are based.

About the NIS Update

TI Georgia conducted an NIS assessment in 2011. This report represents an update to the previous assessment. The primary purpose of this NIS update is to: (a) assess whether there has been any progress over time with regards to the country's integrity system, (b) identify specific changes (both positive and negative) which have occurred since the previous NIS report was published, and (c) identify recommendations and advocacy priorities for improving the country's integrity system.

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. The sheets consist of a “scoring question” for each indicator, supported by further guiding questions and scoring guidelines for the minimum, mid-point and maximum scores. For example:

Sample indicator score sheet: Legislature <i>Capacity – Independence (law)</i>	
Scoring question	To what extent is the legislature independent and free from subordination to external actors by law?
Guiding questions	Can the legislature be dismissed? If yes, under which circumstances? Can the legislature recall itself outside normal session if circumstances so require? Does the legislature control its own agenda? Does it control the appointment/election of the Speaker and the appointments to committees? Can the legislature determine its own timetable? Can the legislature appoint its own technical staff? Do the police require special permission to enter the legislature?
Scoring guidelines	
Minimum score (0)	There are no laws which seek to ensure the independence of the legislature.
25	
Mid-point score (50)	While a number of laws/provisions exist, they do not cover all aspects of legislative independence and/or some provisions contain loopholes.
75	
Maximum score (100)	There are comprehensive laws seeking to ensure the independence of the legislature.

In total the assessment includes over 150 indicators, approximately 12 indicators per pillar. 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 lead researcher relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts.

For this NIS update the findings from the previous NIS assessment are summarised and any changes which have occurred since then are analysed under each indicator.

The assessment represents the current state of integrity institutions in Georgia, using information cited from the last two to three years. It reflects all major legislative changes as of March 2015.

The scoring system

While the NIS is a qualitative assessment, numerical scores are assigned in order to summarise the information and help to highlight key weaknesses and strengths of the integrity system. 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), validated by an in-country multi-stakeholder advisory group and finally vetted by TI

Georgia. An aggregate score for each dimension is calculated (simple average of its constituent indicator scores) and the three dimension scores are then averaged to arrive at the overall score for each pillar. The difference in practice versus law can also be calculated at both dimension level and for an institution as a whole.

For this NIS update, the scores for the previous NIS assessment are presented alongside the updated scores to allow for comparison over time in Georgia. However, since there is no international board which reviews and calibrates all scores across countries, the scores cannot be used for cross-country comparison.

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. The consultative approach had two main parts: a high-level Advisory Group and a National Stakeholder Workshop.

NIS Advisory Group	
Name	Affiliation
Zviad Devdariani	Civil Development Agency
Sulkhan Saladze	Georgian Young Lawyers' Association
Nino Evgenidze	Economic Policy Research Center
Tamar Kordzaia	Parliament of Georgia
Pavle Kublashvili	Parliament of Georgia
Ted Jonas	DLA Piper

TI Georgia shared draft report and scores with the members of the advisory group who were asked to share their views, suggestions, and recommendations. Final discretion over scores remained with TI Georgia.

On 23 December 2014, TI Georgia presented the methodology and emerging findings of the assessment at a National Stakeholder Workshop. The draft report was available in advance to participants and the workshop drew significant attendance from representatives of public and key

governance institutions. The workshop helped to further refine the report and address a number of gaps and inaccuracies.

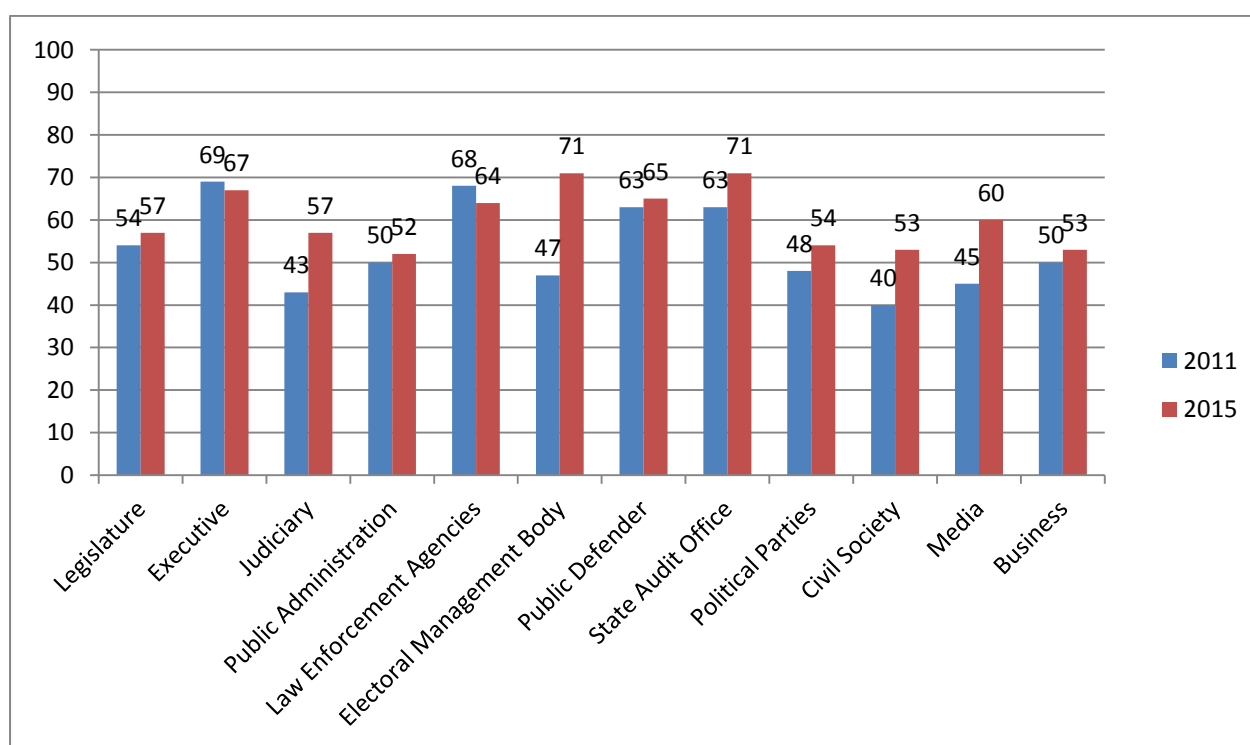
Finally, the full report was reviewed and endorsed by the TI Secretariat, and an external academic reviewer provided an extensive set of comments and feedback.

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. It made its first public appearance in the 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 initial approach suggested the use of ‘National Integrity Workshops’ to put this framework into practice. The focus on “integrity” signified the positive message that corruption can indeed be defeated if integrity reigns in all relevant aspects of public life. In the early 2000s, TI then developed a basic research methodology to study the main characteristics of actual National Integrity Systems in countries around the world via a desk study, no longer using the National Integrity Workshop approach. In 2008, TI engaged in a major overhaul of the research methodology, adding two crucial elements – the scoring system as well as consultative elements of an advisory group and reinstating the National Integrity Workshop, which had been part of the original approach. To date, 40 assessments using the new methodology have been published across the globe. These are available at http://transparency.org/policy_research/nis/

Executive Summary

A number of public institutions (the judiciary, the electoral management body, the State Audit Office) and non-state actors (the media, the civil society) have made considerable progress since the last Georgian National Integrity System assessment conducted in 2011. Some improvements have occurred in the legislature, Public Defender, political parties, and business pillars. Meanwhile, the situation has deteriorated in the executive branch and the law enforcement agencies and no progress has been made in the public administration (where the situation has deteriorated in practice).



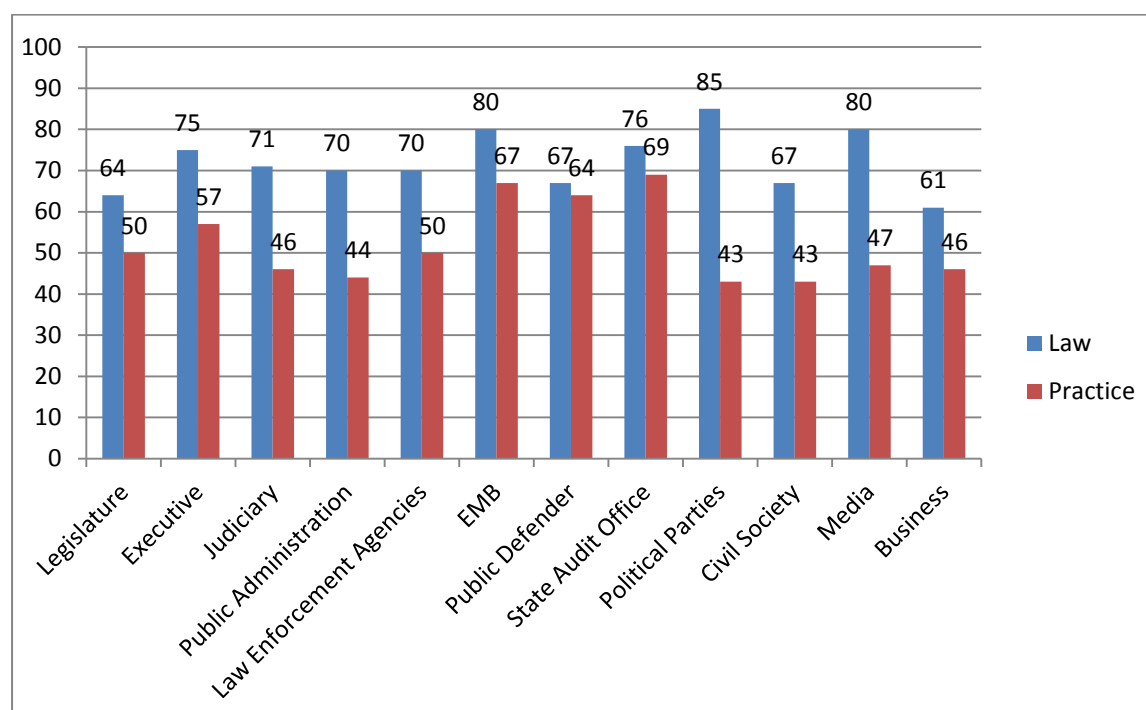
Progress on the National Integrity System

The 2011 NIS report identified the weakness of the legislature and the judiciary relative to the executive branch (and resulting lack of accountability of the later) as a key challenge of Georgia's National Integrity System, along with the absence of strong political parties and imbalances of the electoral system which failed to create a level playing field. Significant gaps between law and practice were also highlighted as a major problem, particularly in terms of the lack of effective mechanisms for the enforcement of the country's anti-corruption laws and integrity provisions. The weakness of non-state pillars (the media, the civil society, and business) was also noted.

As the updated pillar scores and the summaries in the section below show, some progress has been made since 2011 toward addressing these challenges of the National Integrity System. A number of public institutions (the judiciary, the electoral administration, the State Audit Office) and non-state

pillars (the media, the civil society) have achieved notable improvements since 2011, which is reflected in a significant increase in their aggregate scores. The electoral administration, in particular, has seen an impressive increase. A more level playing field (resulting also from a relatively more even distribution of resources between the ruling party and the opposition) has the potential to contribute to further general improvement of the National Integrity system.

NIS pillars in 2015: law vs practice



As far as the main branches of government are concerned, the judiciary appears to have become stronger and more independent, at least in relative terms, since 2011. Parliament has become more diverse and pluralistic but this has not translated into effective oversight of the executive branch and so the problem of the lack of the executive branch's accountability remains unsolved.

The executive branch and the law enforcement agencies – the two pillars that received highest scores in 2011 – are the only two institutions whose aggregate scores have decreased in 2015, indicating both a lack of progress and a deterioration in some aspects of their operation. Reduced independence resulting from undue external influence is the main negative change that has occurred in these institutions since 2011. In addition, to these two institutions, the public administration's aggregate score for practice has also decreased (although the overall score actually increased slightly due to the improvements in the law).

Civil society has improved significantly and has made considerable impact over the last three years through continuous monitoring of government and a number of effective advocacy campaigns. The media has become more independent since 2011 and has been providing a more diverse reporting on political issues, as well as a better coverage of corruption.

There have been some improvements in the Public Defender, political parties, and business pillars.

Discrepancies between law and practice remain significant and Georgia is yet to establish an effective mechanism for monitoring the application of its anti-corruption and integrity provisions in practice (whether in the form of an independent anti-corruption agency or some other way).

Establishing such mechanism, reinforcing the progress that has been made in some institutions over the last three years and addressing the remaining weakness (and some new challenges) of the National Integrity System should be the priorities of Georgia's anti-corruption policy and governance reforms over the next few years.

NIS Pillars

The legislature (**Parliament**) has a more diverse composition and is relatively more independent in practice compared with 2011. The transparency of the legislature's work has also improved. However, the current level of Parliament's independence is still not enough for it to be able to effectively oversee the activities of the executive branch. There are problems in terms of Parliament's integrity as there is no binding code of ethics for its members and some of them have provided inaccurate information in their asset declarations. The legislature has not prioritized reform of the anti-corruption and good governance legislation in recent years.

The **executive branch's** independence has decreased as a result of former Prime Minister Bidzina Ivanishvili's informal influence and involvement in cabinet matters. The government's accountability is not guaranteed in practice because of the weakness of parliamentary oversight, while its integrity has been undermined by weak 'revolving door' regulations and general lack of enforcement mechanisms for the relevant rules. Meanwhile, the government has also failed to show a commitment to the establishment of an independent and professional civil service. On the positive side, the executive branch's transparency has improved following the adoption of regulations on pro-active publication of information.

The **judiciary** is more independent in practice than it was in 2011 as demonstrated by a more pro-active role of judges vis-à-vis prosecutors in criminal cases and a substantial increase in the number of administrative disputes won by private parties against the state. There are also stronger legal safeguards for the institution's independence since judges now play a more prominent role in the formation of the High Council of Justice and in judicial appointments. The judiciary's transparency has improved following the lifting of the ban on courtroom recording and court session broadcasts. At the same time, the mandatory three-year probation period prior to lifetime appointment undermines the independence of judges. A number of high-profile trials involving former government officials have also raised concerns over the judiciary's independence and transparency.

The **public administration's** independence from political influence is yet to be achieved as demonstrated by mass dismissals of civil servants after the transfer of power following the 2012 parliamentary elections. Growing concerns about the cases of favouritism and nepotism in public sector appointments indicate significant challenges in terms of the public administration's integrity. Internal audit units have been established in all public sector agencies but there are significant shortcomings in their operation. Public sector agencies generally conduct their procurement through a highly transparent online platform but loopholes in the law often make it possible for contracts to be concluded outside this system and without competitive bidding. A number of public sector

agencies have adopted rules for pro-active publication of information and have become more responsive to requests for public information.

There has been a lack of progress in Georgia's **law enforcement agencies** since 2011. The Internal Affairs Ministry and the Prosecutor's Office continue to receive generous funding from the state budget and the legal framework governing their activities is mostly sound. However, they remain insufficiently independent from the country's political leadership as demonstrated by selective application of justice in some prosecutions against former government officials and instances of police interference in election campaigns. The independence of the law enforcement agencies has been further undermined by informal external influence. This lack of independence can also undermine the ability of these agencies to address possible cases of high-level corruption. Accountability of these agencies is not guaranteed in practice, as alleged offences committed by law enforcement officers are usually not investigated properly.

The quantity and the quality of the audits conducted by the **State Audit Office (SAO)** have improved since 2011, along with its ability to detect irregularities and to contribute to the improvement of public financial management. The SAO's transparency has also improved through an increase in the amount of information published by the institution pro-actively. On the negative side, the SAO continues to face challenges in terms of its access to resources, while its independence is not protected sufficiently in practice.

The performance of the **electoral management body** has improved significantly since 2011. The electoral administration is more independent than in 2011 and operates in a transparent manner. Progress has also been made in terms of the electoral administration's accountability and integrity as a result of improvements in the complaints and appeals procedures and adoption of a code of conduct for electoral officials. The quality of administration of elections has improved overall. At the same time, the electoral administration continues to face problems in the area of human resources, particularly in terms of the qualifications of lower-level commission members.

The **Public Defender's** office remains independent in its activities and operates in a transparent manner but continues to face challenges because of insufficient resources despite improvements in this area. The office receives large numbers of complaints from citizens, conducts investigations, and produces recommendations, although the law enforcement agencies do not always follow up on these consistently, particularly when they are related to alleged offences committed by law enforcement officers themselves.

Georgia's legal framework remains conducive to the establishment and operation of **political parties**. Compared with 2011, financial resources are distributed more evenly between the ruling party and the opposition, although the current ruling coalition still enjoys considerable advantage in terms of private donations. Transparency and accountability of political parties have improved following the transfer of the party finance monitoring responsibility from the Central Electoral Commission to the State Audit Office. Internal democratic governance remains weak in Georgian parties and they also continue to underperform in terms of aggregation and representation of social interests, while also devoting insufficient attention to anti-corruption policy in their platforms.

Georgia's **media** sector has improved in a number of ways since 2011. Political influence over the country's key TV stations has decreased, resulting in a more diverse and balanced coverage of

political and governance issues, as well as progress in terms of the media coverage of corruption. Transparency has also increased through the introduction of legal provisions requiring disclosure of ownership and financing sources. On the negative side, a number of prominent cases point to continuing attempts at external interference in journalists work, while the composition of the Georgian Public Broadcaster's board is the subject of an on-going dispute. Media accountability and integrity remain problematic because of poor enforcement and, in some cases, complete lack of relevant rules and codes of ethics.

Georgian **civil society** has been both more active and more successful in terms of holding the government accountable and engaging in advocacy for policy reform since 2011. However, the country's CSOs continue to face challenges in terms of resources and their funding is not diversified. The problems in terms of transparency, accountability, and integrity of CSOs highlighted in the last NIS assessment have not been addressed. Georgian CSOs are generally independent in their activities and operate without government interference, although the government's and the ruling party's leaders have recently made a number of aggressive statements against the country's leading CSOs and the authorities have failed to prevent violence against the CSOs working on LGBT rights.

There have been few changes in Georgia's **business** sector since the 2011 NIS report. The legal framework remains mostly business-friendly and businesses have become relatively more independent in practice as there have been fewer instances of undue government interference in their activities since 2011. There are still significant problems in terms of transparency and accountability of companies, including the lack of effective mechanisms for identifying their beneficial owners. Effective integrity programs and measures remain an exception in Georgia's business entities. The private sector does not participate actively in the government's anti-corruption policy and there is little collaboration between the private sector and the civil society.

Key Recommendations

While more detailed recommendations for each pillar are provided in the concluding chapter of this report, the following steps need to be taken as a matter of priority by the Georgian authorities in order to address the main gaps in the National Integrity System:

- Improve the legal provisions designed to prevent corruption and conflict of interest and ensure integrity in the public service and create proper mechanisms for their enforcement in practice, possibly through the establishment of an independent anti-corruption agency with appropriate powers and resources
- Eliminate the loopholes in the procurement law and reduce the volume of non-competitive contracts concluded outside the transparent electronic procurement platform
- Continue the progress toward establishing a more level playing field for political parties by addressing the remaining problems of the electoral system and ensuring more equal access of political parties to resources
- Eliminate undue informal external influence over the government
- Establish an independent and professional public service free from undue political influence by implementing the necessary legislative reform, establishing a transparent system of recruitment, dismissal and remuneration in public service, eliminating instances of favouritism and nepotism, and ending the practice of mass dismissals of civil servants after elections

Country Profile: Foundations for the National Integrity System

Political-Institutional Foundations

2015 Score: 50 (2011 Score: 50)

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

The 2011 NIS report noted that Georgia's legal framework guaranteed civil and political rights of citizens and provided for fundamental democratic processes, but these legal provisions were not applied consistently in practice. The Georgian Constitution and other laws provided for free competition for government offices but the lack of a clear separation of the ruling party and the state, as well as the ruling party's exclusive access to administrative resources and privileged access to some private resources (such as major private media outlets and private financing), created an "uneven playing field" during elections. The ability of citizens to seek redress for the violation of their rights was sometimes undermined by the weakness of the judiciary and insufficient accountability of certain parts of the government, particularly the law enforcement agencies. The rule of law, while enshrined in the country's legal framework, was undermined in practice by the dominance of the executive branch and the weakness of the legislature and the judiciary. Parliament's role of executive oversight was anchored in the constitution but the legislature was unable to do perform this role effectively in practice. Divergence between formal rules and political practice was a matter of concern.

As of 2014, Georgia's legal framework (including the Constitution) continues to guarantee civil and political rights, as well as the democratic process and free competition for government offices. In practice, abuse of administrative resources has not occurred during recent elections on the same scale as before,¹ while the media has become more pluralistic and balanced² and the financing gap between the ruling party and the opposition has decreased (although the gap in terms of private donations still remains significant).³ The judiciary has become relatively more independent and stronger since 2012,⁴ although the accountability of law enforcement agencies is still not ensured in practice.⁵ Parliament is more pluralistic and active compared with 2011 but the legislature's oversight of the executive branch remains weak.⁶ Divergence between formal rules and political

¹ OSCE/ODIHR, *Georgia Presidential Election, 27 October 2013: Final Report*, 14 January 2014, Warsaw, 1

² <http://www.irex.org/resource/georgia-media-sustainability-index-msi> (accessed on 10 January 2015)

³ See, for example: TI Georgia, *Georgian Political Party Finances in 2013*, 18; http://sao.ge/files/finansuri%20monitoringi/2014_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf (accessed on 15 March 2015); http://sao.ge/files/finansuri%20monitoringi/2014_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf (accessed on 15 March 2015)

⁴ <https://freedomhouse.org/report/nations-transit/2014/georgia#.VKznJSvuh5I> (accessed on 15 March 2015)

⁵ <http://ombudsman.ge/uploads/other/1/1934.pdf>

⁶ See the chapter on the legislature (the 'executive branch oversight' indicator) of this report for a more detailed discussion of the shortcomings of parliamentary oversight.

practice remains a problem, particularly in the light of the allegations concerning former Prime Minister Bidzina Ivanishvili's persistent influence over the government.⁷

Overall, despite some improvements since 2011, the progress is neither significant nor consolidated enough to justify a higher score.

Socio-Political Foundations

Score: 50 (2011 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?

According to the 2011 NIS report, the general level of citizen participation and activism was low. Political parties were mostly established around influential politicians and relied on the personal popularity of their leaders for electoral success. Internal democratic governance of parties was underdeveloped and changes of leadership were rare, regardless of electoral performance. Trade unions were few and their influence was negligible, mainly because of high levels of unemployment and self-employment. While Georgia had an active civil society, the number of well-resourced CSOs was small and their ability to influence policies and decisions through advocacy was limited both by their lack of a broad social base/support and the lack of pluralism in the country's governance system (which was overwhelmingly dominated by a single party). The country's political elite was exclusive, power was concentrated within a relatively small group of individuals close to the president and political influence was determined by personal relationships rather than formal positions in the government, creating possibilities for cronyism and insider dealings. Ethnic minorities and women were underrepresented in the political system. Freedom of religion was guaranteed by the Constitution and the fundamental rights of religious minorities were generally respected in practice, although cases of harassment had been reported.

As of 2014, citizen participation and activism levels remain low. In a 2014 survey by the Caucasus Research Resources Centers, only 2 per cent of respondents said that they were members of a union, association or club.⁸ Trade Unions remain weak.⁹ CSOs remain active and have achieved some notable changes in policy through advocacy campaigns in recent years,¹⁰ although they continue to face serious problems in terms of the diversity of funding and the ability to retain qualified personnel.¹¹ According to the Bertelsmann Transformation Index 2014 report on Georgia, the "tendency to concentrate political power in a small circle of decision-makers... seems to continue under the new government."¹² There have been some attempts to improve the internal democratic governance of political parties -- for example, by selecting candidates for some elections through

⁷ <http://transparency.ge/en/post/general-announcement/confrontations-between-government-and-president-damaging-country> (accessed on 15 March 2015)

⁸ <http://caucasusbarometer.org/en/vl2014ge/MEMBRUNI/> (accessed on 15 March 2015)

⁹ <https://freedomhouse.org/report/nations-transit/2014/georgia#.VKznJSvuh5I> (accessed on 15 March 2015)

¹⁰ <http://www.ngo.ee/sites/default/files/files/+E&E%202013%20CSOSI%20Full%20Report.pdf> (accessed on 15 March 2015)

¹¹ <http://www.ngo.ee/sites/default/files/files/+E&E%202013%20CSOSI%20Full%20Report.pdf> (accessed on 15 March 2015)

¹² <http://www.bti-project.org/reports/country-reports/pse/geo/index.nc#chap2> (accessed on 15 March 2015)

primaries¹³ -- but these still remain rare exceptions from the general rule.¹⁴ Protection of minority rights remains a problem.¹⁵ Women continue to be underrepresented in the political system: There are only 17 female MPs in Georgia's 150-seat legislature.¹⁶

The situation is largely the same as in 2011, so the indicator score remains unchanged.

Socio-Economic Foundations

2015 Score: 25 (2011 score: 25)

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

The 2011 NIS report concluded that the socio-economic situation had improved as a result of government efforts in the preceding years but significant challenges remained, particularly in terms of unemployment, poverty, healthcare and social protection. The Georgian economy had expanded rapidly between 2003 and 2008, although the per capita GDP remained low. Georgia's business sector benefited from the country's liberal legal framework and a very low level of administrative corruption, although companies also faced a number of significant problems, including limited access to capital and credit and a general lack of judicial remedy in disputes with the authorities, in particular related to protection of property rights. The government had attempted to introduce targeted and needs-based welfare, social aid, and healthcare programs, although the funds allocated for those programs were insufficient. Economic inequalities persisted, with some 30 per cent of the population living below the poverty line. Official unemployment figures remained high, while a significant number of the so-called "self-employed" did not have steady sources of income either. The agricultural sector which employed more than half of the workforce had largely been excluded from economic improvements and rural residents also faced significant problems in terms of access to water, healthcare and education.

The economy continued to grow after 2011, although the growth rate decreased from 6-7 per cent in 2011-2012 to 3 per cent in 2013.¹⁷ Unemployment and poverty remain significant problems. The official unemployment rate dropped slightly from 15.1 per cent in 2011 to 14.6 per cent in 2013.¹⁸ As in 2011, the number of people without a stable income is likely to be much higher. For example, in the 2013 Caucasus Barometer survey, 60 per cent of respondents said that they did not have a job.¹⁹ The number of people living on less than 2 dollars a day remains high at 31 per cent²⁰ and the poverty rate continues to be significantly higher in rural areas.²¹ Despite the fact that more than half of the country's population is rural, agriculture accounts for only 8-9 per cent of the GDP, pointing to

¹³ <http://www.civil.ge/geo/article.php?id=27955>

¹⁴ See the Political Parties chapter of this report (the 'integrity' indicator for practice) for a more detailed discussion of internal democratic governance in Georgia's political parties.

¹⁵ <https://freedomhouse.org/report/nations-transit/2014/georgia#.VKznJSvuh5I> (accessed on 15 March 2015)

¹⁶ <http://www.parliament.ge/ge/parlamentarebi/galebi-parlamentshi-23> (accessed on 15 March 2015)

¹⁷ http://geostat.ge/?action=page&p_id=118&lang=geo (accessed on 15 March 2015)

¹⁸ http://geostat.ge/?action=page&p_id=145&lang=geo (accessed on 15 March 2015)

¹⁹ <http://caucasusbarometer.org/en/cb2013ge/HAVEJOB> (accessed on 15 March 2015)

²⁰ <http://data.worldbank.org/indicator/SI.POV.2DAY/countries/GE?display=graph> (accessed on 15 March 2015)

²¹ <http://www.bti-project.org/reports/country-reports/pse/geo/index.nc#chap2> (accessed on 15 March 2015)

a highly inefficient agriculture sector.²² In terms of inequality, Georgia's Gini coefficient has not changed significantly in recent years (dropping slightly from 0.42 in 2011 to 0.40 in 2013).²³ Universal healthcare coverage was introduced in 2013 and the budget allocations for healthcare and social aid almost doubled,²⁴ although the level of public awareness regarding these programs remains low.²⁵ Businesses appear to enjoy stronger protection from courts as the judiciary has become relatively more independent compared with 2011, resulting in a considerable increase in the number of court disputes won by private parties against government bodies.²⁶

Overall, despite some improvements, the fundamental social and economic problems are essentially the same as in 2011, so the indicator score remains unchanged.

Socio-Cultural Foundations

Score: 50

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

According to the 2011 NIS report, the values of Georgian society were, to some extent, conducive to a functioning national integrity system, although the general level of interpersonal trust was very low. According to the 2009 data from World Values Survey, only 13 per cent of the respondents believed that most people could be trusted, while 44 per cent said that caution was necessary and 30 per cent said that only friends and relatives are trustworthy. Georgia received a very high score in the same survey in terms of citizen's "public-mindedness". An overwhelming majority of the respondents disapproved of bribery (98 per cent), tax evasion (97 per cent) and obtaining of public benefits through deception (96 per cent).

Georgia was not included in the most recent round of World Values Survey (2010-2014),²⁷ so there is no comparable data to assess progress against the results cited in the previous NIS report. Data from other sources indicates that public attitudes generally remain supportive to an effective national integrity system. For example, 72 per cent of Georgian respondents in the 2013 Global Corruption Barometer survey said that ordinary people can make a difference in the fight against corruption.²⁸ According to the 2013 Caucasus Barometer survey, 69 per cent of respondents consider it important for a citizen to always obey the law.²⁹

There is no evidence suggesting that there has been a significant change in the prevailing ethics, norms, and values of Georgian society since 2011, so the indicator score remains the same.

²² <http://www.bti-project.org/reports/country-reports/pse/geo/index.nc#chap2> (accessed on 15 March 2015)

²³ http://geostat.ge/?action=page&p_id=187&lang=geo (accessed on 15 March 2015)

²⁴ <http://www.mof.ge/News/5049> (accessed on 15 March 2015)

²⁵ <http://transparency.ge/en/blog/ti-georgia-s-public-opinion-poll-your-healthcare-rights> (accessed on 15 March 2015)

²⁶ See the Judiciary chapter of this report for more details.

²⁷ <http://www.worldvaluessurvey.org/WVSOnline.jsp> (accessed on 15 March 2015)

²⁸ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 15 March 2015)

²⁹ <http://caucasusbarometer.org/en/cb2013ge/ICITLAW/> (accessed on 15 March 2015)

Corruption Profile

A number of surveys reflect the notable improvements that have occurred in Georgia over the last decade in terms of corruption, especially in terms of eliminating bribery in public services. At the same time, there are indications that some of the more complex types of corruption remain a problem. There is a shortage of empirical data regarding different types of corruption.

In the 2014 Corruption Perceptions Index (CPI), Georgia ranked 50th among 175 countries, with the score of 52 out of the maximum 100. Georgia was the highest ranked country in the Eastern Europe and Central Asia region and also ranked higher than a number of EU member states: the Czech Republic, Slovakia, Croatia, Bulgaria, Greece, Italy and Romania. Georgia's CPI core has remained stable in recent years: It was 52 in 2012 and 49 in 2013. Because of the changes in methodology, it is not possible to make comparisons with the pre-2012 CPI results.³⁰

In the 2013 Global Corruption Barometer survey, 28 per cent of Georgian respondents said that corruption had "decreased a lot" in the preceding two years and another 42 per cent said that it had "decreased a little," adding up to 70 per cent of respondents who believed that the situation had changed for the better. In the previous Global Corruption Barometer survey (2010-2011), 78 per cent of respondents had said that the level of corruption had decreased in the preceding three years. The two surveys thus indicate continued progress in the country's efforts to reduce corruption. The number of respondents reporting paying a bribe remained very low at 4 per cent both in the 2010-2011 and the 2013 surveys. In both surveys, respondents identified the judiciary, the media, Parliament, and political parties as the institutions affected most by corruption.³¹

The World Bank's Worldwide Governance Indicators survey shows the steady progress that Georgia has made over the past decade in terms of the "control of corruption" indicator: The country's score increased from 28.8 in 2004 to 56.9 in 2011 to 66.5 in 2013.³² Freedom House's Nations in Transit report (where a lower score means improvement) also shows Georgia's progress: The country's score for the corruption indicator has changed from 5.75 in 2005 to 4.75 in 2011 to 4.50 in 2014.³³

While virtually no one challenges the idea that the government has largely succeeded in eradicating petty corruption, it is sometimes argued that corruption has changed shape in Georgia in recent years. For example, it has been suggested that, while the country suffered from rampant and all-encompassing corruption until 2003, presently, a "clientelistic system" has emerged where the country's leadership "allocates resources in order to generate the loyalty and support it needs to stay in power".³⁴ It has also been suggested that there are significant opportunities for "cronyism and insider deals" because of the "concentration of power among a small and interwoven circle of

³⁰ <http://transparency.ge/en/node/4846> (accessed on 15 March 2015)

³¹ http://www.transparency.org/gcb201011/in_detail (accessed on 15 March 2015);

http://www.transparency.org/gcb2013/in_detail (accessed on 15 March 2015)

³² <http://info.worldbank.org/governance/wgi/index.aspx#countryReports> (accessed on 15 March 2015)

³³ <https://freedomhouse.org/report/nations-transit/2014/georgia#.VK5cBCvuh5I> (accessed on 15 March 2015)

³⁴ Alexander Kupatadze, "Similar Events, Different Outcomes: Accounting for Diverging Corruption Patterns in Post-Revolution Georgia and Ukraine", *Caucasus Analytical Digest*, No 26, 26 April 2011, 2.

individuals”.³⁵ The fact that Georgian society is generally characterised by a low level of confidence in public institutions and instead dominated by more traditional, informal relations³⁶ could be a contributing factor here (together with the general weakness of the government’s internal system of checks and balances and of external watchdogs, which will be discussed later in this report).

There are signs that some of the complex types of corruption could remain a problem in a number of areas. Unreasonable exceptions to open bidding have created corruption risks in Georgia’s otherwise transparent public procurement system. A 2013 study identified a number of possible kickback payments to the ruling party before the 2012 parliamentary elections from the individuals connected with companies that had received non-competitive government contracts.³⁷ Lack of ownership transparency and weak regulation of ‘revolving door’ appointments are other factors contributing to corruption risks.³⁸

³⁵ Bertelsmann Stiftung, *BTI 2010 – Georgia Country Report* (Gutersloh: Bertelsmann Stiftung, 2009), 25.

³⁶ Caucasus Institute for Peace, Democracy and Development, *An Assessment of Georgia Civil Society: Report of the CIVICUS Civil Society Index (2010)*, Tbilisi, Georgia, 47.

³⁷ <http://transparency.ge/en/node/3667> (accessed on 15 March 2015)

³⁸ http://www.transparency.org/country#GEO_Overview (accessed on 15 March 2015)

Anti-Corruption Activities

Background

From late 2003 Georgia's new leadership implemented a number of drastic anti-corruption measures. Reforms and policies targeting corruption included: (1) prosecution and sanctioning of those involved in corruption to tackle the entrenched sense of impunity, (2) reducing the oversized public sector bureaucracy that was a major source of corruption under the old government, and (3) raising salaries of public officials and civil servants, so that they would no longer be tempted to resort to corruption in order to make a living.

Reform of law enforcement agencies – the Interior Ministry and the Prosecutor's Office – was an important element of the government's anti-corruption efforts. The capacity of the two institutions increased immensely after 2004 and they have been in the vanguard of the fight against corruption ever since. Arrests of public officials suspected of corruption were a prominent feature of the anti-corruption policy in the early years of anticorruption reform.³⁹ The old traffic police that was widely perceived as one of the most corrupt institutions in the country was disbanded and the large majority of its staff were fired. A new Patrol Police was established and thousands of new police officers were recruited.⁴⁰

Since corruption was considered a major obstacle to the government's proclaimed policy of promoting economic growth and attracting foreign investment, the government set out to tackle the problem through a reduction in the overall number of public regulatory agencies, as well as the number of regulations and licences required for various commercial activities. The number of taxes, as well as tax rates, was also slashed. Following these measures, only a small percentage of businesses operating in Georgia expected to have to pay a bribe to "get things done".⁴¹

Following the transfer of power in 2012, multiple investigations were launched and corruption-related charges were brought against a number of former high-level officials. However, a monitoring of the resulting trials by the OSCE ODIHR revealed a number of violations that raised doubts as to whether due process was observed in all of these cases.⁴²

Legal Framework

The government's anti-corruption reforms have involved considerable changes in the country's legal framework. Some of the older laws were amended and a number of entirely new laws were adopted to fill the existing gaps.

³⁹ Alexander Kupatadze, "Similar Events, Different Outcomes: Accounting for Diverging Corruption Patterns in Post-Revolution Georgia and Ukraine", *Caucasus Analytical Digest*, No 26, 26 April 2011, 2.

⁴⁰ United Nations Development Programme, *Georgia Human Development Report 2008*, UNDP, Tbilisi 2008, 12

⁴¹ Enterprise Surveys, *Running a Business in Georgia*, Enterprise Surveys Country Notes Series, 2009, 4.

⁴² OSCE/ODIHR, *Trial Monitoring Report Georgia*, Warsaw, 9 December 2014. This is discussed in more detailed in NIS report's chapters on the judiciary and the law enforcement agencies.

Important steps were taken in terms of the legal framework of law enforcement activities and criminalisation of different types of corruption. Both active and passive bribery and trade in influence are now punishable offences, criminal responsibility of legal persons for corruption was introduced,⁴³ and the provisions on money laundering were improved through multiple amendments.⁴⁴ Georgia also became a party to the UN Convention Against Corruption in 2008.

In terms of the legal provisions designed to ensure integrity of public officials, significant amendments were made to the Law on Public Service, and the Law on Conflict of Interest and Corruption in Public Service: a general Code of Ethics for civil servants was added to the former,⁴⁵ while the rules establishing restrictions on gifts and ensuring disclosure of assets of public officials were incorporated into the latter. Provisions on whistleblower protection were also introduced.⁴⁶

Finally, efforts were made to strengthen the legal capacity of the institutions that play an important role in preventing corruption. A new law on the Chamber of Control was adopted in 2008 with the goal of transforming the agency into a modern supreme audit institution.⁴⁷ A law on internal audit and inspection was adopted in 2010.⁴⁸ Reform of the public procurement framework commenced with the adoption of legal amendments in 2009 and continued with the launch of an electronic procurement system in 2011.⁴⁹

These legislative changes were important improvements that have contributed to the strengthening of the country's overall anti-corruption framework. At the same time, some of the laws still contain gaps and/or are not applied consistently in practice. This will be discussed in the relevant chapters of the report.

Anti-Corruption Agency and Strategy

The government's initial efforts described above were largely implemented without an overall strategy or a central agency responsible for preparing anti-corruption policies and monitoring their implementation. Georgia's first anti-corruption strategy was drafted in 2005-2006 and a corresponding action plan was adopted in 2007. The efforts were led by the Office of the Minister of State for Coordination of Reforms. A decision was made in 2008 to essentially rewrite both the strategy and the action plan from scratch. A new body, the Interagency Coordinating Council for Combating Corruption, was established specifically for this purpose.

The Council was set up by the president in December 2008 and was made up of senior officials from the executive branch, the legislature and the judiciary, as well as several representatives of civil society organizations (including TI Georgia).⁵⁰ The presidential decree was replaced on 30 December 2013 by the Georgian Government decree on approving the Council composition and charter

⁴³ Criminal Code of Georgia, adopted on 22 July 1999, Articles 338, 339, 339¹, Section Six¹ (added on 25 July 2006).

⁴⁴ *Ibid.*, Article 194.

⁴⁵ The Law on Public Service, adopted on 31 October 1997, Chapter VI¹ (added on 12 June 2009).

⁴⁶ The Law on Conflict of Interest and Corruption in Public Service, adopted on 17 October 1997, Article 5 (27 March 2009), Article 18 (12 June 2009), Chapter V¹ (27 March 2009).

⁴⁷ The Law State Audit Office, adopted on 26 December 2008.

⁴⁸ The Law on State Internal Audit and Inspection, adopted on 26 March 2010.

⁴⁹ <https://tenders.procurement.gov.ge/login.php> (accessed on 15 March 2015)

⁵⁰ The Georgian president's decree *On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption*, Tbilisi, 26 December 2008

although the Council's responsibilities and powers remained essentially unchanged. The main change concerned the transfer of the power of appointing the Council from the president to the government.⁵¹ The Council's status is also reinforced through a special article in the Law on Conflict of Interest and Corruption in Public Service.⁵²

The Council is chaired by the Minister of Justice, while the ministry's Analytical Department serves as the Council's secretary. The Council's responsibilities include defining anti-corruption policy; preparing and updating the anti-corruption strategy and action plan and monitoring their implementation; coordinating the work of various institutions in the process of implementation of the anti-corruption strategy and action plan; ensuring compliance with the recommendations of international organizations.⁵³

The Council is therefore a body tasked with general policy coordination, rather than an independent and multifunction anti-corruption agency whose responsibilities would include investigation, monitoring and enforcement. The Council's effectiveness and its ability to influence policy have suffered as a result of its limited mandate and resources.⁵⁴

The National Anti-Corruption Strategy, adopted by the Council in January 2010, identified the main goals of the anti-corruption policy.⁵⁵ The Action Plan, approved via a rushed and less than open process in early September 2010, identified the expected results in each of these policy areas and the agencies responsible for the implementation of the relevant activities..⁵⁶ At the same time, it appears that these policy documents were compiled on the basis of general reforms that were already planned in different government agencies, rather than through an analysis of specific corruption-related issues.⁵⁷ Moreover, the Action Plan often lacked appropriate time frames and indicators, the quality of monitoring was inadequate, and implementation reports were published irregularly.⁵⁸

The Anti-Corruption Council and its secretariat started a more inclusive and transparent process of updating the Strategy and producing a new action plan in 2013. The process took nearly two years, further pointing to a likely lack of resources at the Council.⁵⁹ The two documents were finally adopted in February 2015, along with a monitoring and evaluation methodology, which is a notable improvement compared to the previous policy framework.

⁵¹ The Georgian Government's decree *On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption*, Tbilisi, 30 December 2013

⁵² The Law on Conflict of Interest and Corruption in Public Service, Article 12¹

⁵³ The Georgian Government's decree *On Approving Composition and Charter of Interagency Coordination Council for Combating Corruption*

⁵⁴ OECD ACN, *Istanbul Anti-Corruption Action Plan, Third Round of Monitoring: Georgia, Monitoring Report*, OECD, Paris, 25 September 2013, 26.

⁵⁵ The National Anti-Corruption Strategy of Georgia, approved by the Georgian president's decree #376 on 3 June 2010,

⁵⁶ The Action Plan for the Implementation of the National Anti-Corruption Strategy of Georgia, approved by the Georgian president's decree #735 on 14 September 2010.

⁵⁷ OECD ACN, 2013, 14

⁵⁸ *Ibid.*, 2013, 14-15

⁵⁹ *Ibid.*, 2013, 15-16

Civil Society, Business and External Actors

Nine CSOs are involved in the work of the Anti-Corruption Council and the working groups tasked with preparing the new Action Plan.⁶⁰ Outside this framework, a number of CSOs have contributed to anti-corruption efforts both through research and through advocacy. CSOs have been involved, for example, in the development and adoption of legislative amendments that increased transparency of ownership and financing in the media,⁶¹ as well as the changes to electoral campaign funding rules.⁶²

Anti-corruption activities of Georgian business have been limited so far. Representatives of the business community were invited to participate in the Anti-Corruption Council's work in 2013⁶³ According to the OECD, the subject of corruption risks in the private sector has not been studied properly in Georgia, so there is little information available either about the problems or the measures taken to address them. While 25 Georgian companies participate in the UN Global Compact (a UN initiative designed to encourage businesses to adhere to universally accepted principles in a number of areas including anti-corruption), only four of these are active members.⁶⁴

External actors have also contributed to the development of Georgia's anti-corruption legislation and policies in recent years. For example, GRECO and the OECD Anti-Corruption Network have continuously monitored Georgia's commitments within their respective frameworks and have offered recommendations.⁶⁵ This has contributed significantly to the improvements discussed in the section above on reform of the legal framework. Foreign donors have also provided financial support to the local civil society's anti-corruption watchdogs.

⁶⁰ *Ibid.*, 2013, 18

⁶¹ <http://www.ngo.ee/sites/default/files/files/+E&E%202013%20CSOSI%20Full%20Report.pdf> (accessed on 15 March 2015)

⁶² https://freedomhouse.org/report/nations-transit/2013/georgia#.VK_TOivuh5I (accessed on 15 March 2015)

⁶³ OECD ACN, 2013, 23

⁶⁴ *Ibid.*, 2013, 100

⁶⁵ See, for example, OECD ACN, 2013; Group of States against Corruption, *Third Evaluation Round Compliance Report on Georgia*, adopted by GRECO at its 60th Plenary Meeting (Strasbourg, 17-21 June 2013).

Legislature

Summary

Georgian Parliament's independence has increased since 2011, among other things, due to its more pluralistic composition, although the legislature continues to be influenced by the Government and its ability to oversee the executive branch's activities has not improved. Parliament operates in a transparent manner but important problems remain in terms of the legislature's access to resources, its accountability to citizens, and the integrity of its members.

Legislature Overall Pillar Score: 57/100 (2011: 54/100)			
Dimension	Indicator	Law	Practice
Capacity: 69/100 (2011: 63/100)	Resources	100 (2011: 100)	50 (2011: 50)
	Independence	75 (2011: 75)	50 (2011: 25)
Governance: 63/100 (2011: 63/100)	Transparency	75 (2011: 75)	75 (2011: 75)
	Accountability	50 (2011: 50)	50 (2011: 50)
	Integrity	75 (2011: 75)	50 (2011: 50)
Role: 38/100 (2011: 38/100)	Executive branch oversight	25 (2011: 25)	
	Legal reform	50 (2011: 50)	
Law and practice average		64 (2011: 64)	50 (2011: 46)

Structure and Organisation

Georgia has had a parliament since the declaration of independence in 1991. The present legislature is a 150-seat, single-chamber body elected every four years. There are 77 MPs elected through nationwide proportional vote and 73 MPs elected in single-seat electoral districts. The general principles of parliament's work are set out in the Georgian Constitution, while the more specific rules are given in the Parliamentary Rules of Procedure. The Constitution states that parliament is the country's supreme representative body, responsible for the formulation of foreign and domestic policies and oversight of the executive.

Parliament has 15 standing committees and the Bureau, a body responsible for coordinating the legislature's activities. A group of at least six MPs can form a faction: a parliamentary group that enjoys a number of powers and privileges. In practice, factions are usually formed along party lines. A faction or factions that comprise more than half of the total number of MPs can form the Parliamentary Majority, while a faction or factions that comprise more than half of the remaining MPs (outside the Parliamentary Majority) can form the Parliamentary Minority. The Majority and the

Minority also enjoy certain privileges. There are a total of four factions in the Georgian parliament today.

Resources (Law)

2015 Score: 100 (2011 Score: 100)

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

According to the 2011 NIS Assessment, Georgia's legal framework guaranteed Parliament's access to the necessary financial, human and logistical resources. Under the Budget Code and the Parliamentary Rules of Procedure, the legislature controlled the drafting of its own budget and the latter also guaranteed availability of support staff.

The legal framework covering Parliament's access to resources has largely remained unchanged since 2011. The only noteworthy change in the legislation occurred in December 2012. Specifically, MPs elected in single-seat districts were assigned bureaus in the districts they represent in order to facilitate their work with local constituents.⁶⁶ These bureaus receive GEL 5,000 (USD 2,288 -- All currency conversion rates in this report are from www.oanda.com as of 15 March 2015) per month from the state budget, and they also received GEL 5,000 as lump sum assistance.⁶⁷

Since the only development to have occurred since 2011 was positive, the indicator score of 100 remains unchanged.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

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

The 2011 NIS Assessment noted that the Georgian Parliament received adequate funding from the state budget to carry out its duties but had problems in terms of the availability of qualified staff, which reportedly affected the quality of the legislative process.

The Parliament's move from Tbilisi to Kutaisi in October 2012 has not had any significant impact on staff turnover or increase in resources. Only a few new people were recruited by Parliament over the last two years since almost all of the old staff members agreed to work in Kutaisi.⁶⁸ Parliament conducted qualification exams for the old staff but through a unified system, which failed to adequately measure the specialized competence of each staff member.⁶⁹ As one of the MPs

⁶⁶ The Georgian Parliament Rules of Procedure, adopted on 22 June 2012, Article 19

⁶⁷ Parliament of Georgia, Decree #29/3, 7 February 2013

⁶⁸ TI Georgia's interview with Khatuna Gogorishvili, Member of Parliament, 23 April 2014

⁶⁹ TI Georgia's interview with Nino Vardosanidze, Parliamentary Program Manager, and Tamar Sartania, Senior Parliamentary Program Officer of the National Democratic Institute for International Affairs (NDI), 31 March 2014

explained, Parliament lacks funding to hire qualified experts, especially from foreign countries, and this is why it often has to rely on donor assistance when it comes to translating documents into foreign languages, for instance.⁷⁰ In addition, there are remaining problems related to organization and proper functioning of Parliament's Information Technology units that failed to prevent the hacking of Parliament's web page on several occasions.⁷¹⁷²

On a positive note, since April 2014, MPs elected through nationwide proportional vote (77 in total) are able to hire personal assistants, which they consider to be a useful additional resource for improving their work.⁷³

Despite some improvements, the situation is largely the same as in 2011, so the indicator score remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

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

According to the 2011 NIS Assessment, the Georgian Parliament was mostly free from subordination to external actors by law which protected the legislature from undue interference in its work and provided MPs with immunity from prosecution. MPs mandates could not be revoked and the legislature was free to elect its own officials and determine its own agenda. The president's constitutional power to dissolve parliament was highlighted as a potential threat to the legislature's independence, although it had never been exercised.

Under the Constitutional changes of 2013, the President's right to dissolve Parliament has been limited in that he can only use this right if Parliament starts the vote of no confidence procedures against the government, inter alia, by failing to adopt the state budget within two months after the start of the budget year.⁷⁴ At the same time, changes were made to vote of no confidence procedures: The clause that made it possible for the Prime Minister to link any legislative proposal to the question of confidence and have it passed without the legislature's approval so long as Parliament would fail to declare no confidence in the Government was removed.⁷⁵

Parliament also removed the provision from Criminal Procedure Code requiring its consent for Prosecutor's Office to bring criminal charges against MPs.⁷⁶ As one of the MPs explained, the reason behind the removal of this provision was that it was in conflict with the Constitution which had already defined that Parliament's consent should not be required in such cases.⁷⁷ The MP believes,

⁷⁰ TI Georgia's interview with Vakhtang Khmaladze, Member of Parliament, Chairman of Legal Issues Committee, 8 May 2014

⁷¹ Ibid

⁷² <http://www.netgazeti.ge/GE/105/News/26920/> (accessed on 15 March 2015)

⁷³ Gogorishvili, op cit

⁷⁴ The Constitution of Georgia, adopted on 24 August 1995, Articles 80 and 93 (4¹)

⁷⁵ TI Georgia's interview with Tatuli Todua, Parliamentary Secretary of Georgian Young Lawyers' Association, 2 April 2014

⁷⁶ <http://www.livepress.ge/ka/site/news/8534/> (accessed on 15 March 2015)

⁷⁷ Khmaladze, op cit

however, additional legal safeguards should be introduced to ensure that MPs' immunity is not compromised on political grounds as a result of this change.⁷⁸

Since there has been a mix of positive and negative developments since 2011, the indicator score remains unchanged.

Independence (Practice)

2015 score: 50 (2011 Score: 25)

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

According to the 2011 NIS Assessment, while the Georgian parliament's independence was largely secure from a legal point of view, its actual independence was affected negatively by its political composition. At the time the president's party controlled an overwhelming majority of seats in the legislature and the president's strong influence over his party had resulted in Parliament's "voluntary submission" to the executive branch's will.

The October 2012 elections produced a more pluralistic Parliament. The current opposition has more seats than before, while the new parliamentary majority is both smaller (87 seats of the total 150) and more diverse internally (being a coalition of several parties). This in turn has led to increased activity of MPs in law-making processes, including putting forward new legal initiatives and debating actively on draft laws submitted by the executive branch. For instance, in the period between October 2012 and October 2013, almost 50 per cent of all draft laws (620 in total) were initiated by individual MPs, and 10 per cent by parliamentary committees and factions.⁷⁹

On the other hand, while a number of government-initiated draft laws were suspended or substantially amended by MPs (e.g., draft laws on education and cultural heritage), a majority of them were adopted into laws without any resistance from Parliament despite civil society calls suggesting resistance was necessary (e.g., draft laws on police, questioning of witnesses).⁸⁰

Overall, because of the positive developments since 2011, the indicator score has increased from 25 in 2011 to 50 in 2015.

Transparency (Law)

2015 score: 75 (2011 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 2011 NIS Assessment noted that the Constitution and the Parliamentary Rules of Procedure generally ensured the public's access to information about the activities of the legislature. There was

⁷⁸ Ibid

⁷⁹ Transparency International Georgia, *The Performance of the Georgian Parliament: October 2012 – October 2013*, April 2014, 6-7

⁸⁰ Vardosanidze and Sartania, op cit

a legal requirement for broadcasting Parliament's sessions on radio and television and accredited media were guaranteed access to the sessions. Publication of laws and other documents adopted by Parliament, as well as of the voting records, was mandatory. On the negative side, there were some gaps in the law regarding citizens' access to parliamentary sessions and publication of draft laws and session agendas.

Since 2011, a number of changes have been made to Parliamentary Rules of Procedure to increase public access to draft laws and parliamentary session agendas. Specifically, under the new rules, the committee agendas are to be published on Parliament's web page a day before the committee hearing.⁸¹ As for the discussion of draft laws, new regulations enable three days for public comments before the first committee hearing.⁸² However, CSOs were asking for the provision of at least five days before each of the three hearings so that the public have more reasonable time for submitting their comments.

Parliament has formally adopted a list of information that should be published proactively on its website.⁸³ No changes have been implemented in the provisions concerning citizen's access to the legislature.

Overall, while there have been important improvements since 2011, the remaining problems mean that the maximum score of 100 would not be justified, so the indicator score of 75 remains unchanged.

Transparency (Practice)

2015 score: 75 (2011 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?

According to the 2011 NIS Assessment, the public (including the media and civil society organizations) generally had free and unrestricted access to information about parliament's activities. The legislature also demonstrated a good rate of response to requests for public information submitted by TI Georgia as part of the NIS research. At the same time, parliament did not always publish certain types of information, including draft laws and voting records, in a timely manner.

There have been some improvements in terms of Parliament's transparency as citizens have easier access to parliamentary hearings and draft laws that are published online immediately after their registration at Parliament Bureau.⁸⁴ Citizens are now also able to track amendments to draft laws between the three different hearings, which they could not do before.⁸⁵ However, draft laws are

⁸¹ The Georgian Parliament Rules of Procedure, Article 49 (5)

⁸² The Georgian Parliament Rules of Procedure, Article 146 (d)

⁸³ <http://parliament.ge/uploads/other/18/18767.pdf> (accessed on 15 March 2015)

⁸⁴ Khmaladze, op cit

⁸⁵ See, for example, the draft of the Law on Amendments to Local Self-Government Code of Georgia, <http://www.parliament.ge/ge/law/6207/10261> (accessed on 15 March 2015)

published as scanned images without chronological or alphabetical order, which makes it difficult to use them for analysis.⁸⁶

On the other hand, the agendas of committee hearings as well as MPs' voting records are also being published more often than before, albeit with problems related to comprehensiveness, timeliness and technical accuracy of information provided. For instance, the agendas of committee hearings are not always published in a timely manner while voting records do not allow for finding which MP was absent or abstained from voting.⁸⁷ In addition, no voting records are published for parliamentary decrees and resolutions and neither is data about the MPs absence from parliamentary sessions.⁸⁸ Another major setback is that Parliament decided to remove the archived data from its website as a result of which it is not possible to track the session transcripts or recordings by date.⁸⁹

Parliament's record of responding to the public's Freedom of Information (FoI) requests remains good. For instance, of 14 FoI requests submitted by the Institute for the Development of Freedom of Information (IDFI, a leading Georgian CSO in the field of access to public information) between 1 October 2013 and 1 March 2014, Parliament responded to 12 within the required 10 working days while providing comprehensive responses to 11.⁹⁰

On the whole, while Parliament's transparency in practice has improved, the maximum score of 100 cannot be assigned because of the remaining problems in this area, so the indicator score of 75 remains unchanged.

Accountability (Law)

2015 score: 50 (2011 Score: 50)

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

The 2011 NIS report noted that the legal framework contained a number of provisions designed to hold parliament accountable for its actions: The Constitutional Court could review the legislature's acts in terms of their compliance with the Constitution and there were procedures for lifting an MPs immunity from prosecution in the event of a crime. At the same time, while the law did require MPs to report to citizens' regularly, there were gaps in terms of public consultation during the legislative process.

A major legislative change that occurred since 2011 has actually worsened the situation in that Parliament removed the provision from Parliamentary Rules of Procedures requiring MPs to report to their constituents on their activities regularly once every six months.⁹¹ Parliament members explained this by the fact that this provision was not applied in practice and therefore they thought

⁸⁶ Vardosanidze and Sartania, op cit

⁸⁷ Ibid

⁸⁸ Gogorishvili op cit

⁸⁹ Ibid

⁹⁰ Institute of Development of Freedom of Information, *Availability of Public Information in Central Public Agencies, March 2014*, 37-38.

⁹¹ Vardosanidze and Sartania, op cit

it was reasonable to remove it.⁹² However, the regulation on MP's responsibility to report back to their respective committees after meeting with constituents has remained intact. The committees have three months to analyze this information after which they submit a report to Chairman of the Parliament while also publishing it on Parliament's web page.⁹³

The new legal provision on the district bureaus for the MPs elected in single-seat districts mentioned earlier in this chapter is a positive development in terms of accountability as it can, at least in theory, encourage the MPs to communicate more actively with their constituents and report to them more regularly. However, gaps in the provisions on public consultation in the legislative process have not been addressed.

Overall, despite one negative change described above, the key provisions on parliamentary accountability are essentially the same as in 2011, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 50 (2011 Score: 50)

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

According to the 2011 NIS report, the vagueness of the legal provisions concerning public consultation during the legislative process created problems in practice too. While parliament and its committees sometimes sought input from the wider public on draft legislation, this was not done regularly. MPs made some efforts to report back to their constituents but those efforts were not consistent.

Even though the requirement to do so was removed from the legislation, a number of MPs still inform their constituents on their activities, on a voluntary basis, through reception hours, presentations or social media networks.⁹⁴ However, this is not true for other MPs who try to avoid meetings with their constituents by using the Parliament's VIP entrance instead of the public entrance, for instance. Another side of this problem is that the MPs can only issue two passes per day for interested citizens to enter the Parliament building and meet with their elected representatives in person.⁹⁶

The situation is largely the same as in 2011, so the indicator score remains unchanged.

Integrity (Law)

2015 score: 75 (2011 score: 75)

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

⁹² Khmaladze, op cit

⁹³ The Georgian Parliament Rules of Procedure, Article 242

⁹⁴ Vardosanidze and Sartania, op cit

⁹⁵ Khmaladze, op cit

⁹⁶ Gogorishvili, op cit

According to the 2011 NIS report, the legal framework generally established adequate provisions on parliamentary integrity. The Constitution and other laws contained multiple provisions designed to promote the integrity of MPs and covering various issues, including conflict of interest, gifts and hospitality, and asset disclosure. At the same time, there was no formal code of conduct for MPs, or any provisions mandating either parliament or an independent body to deal with ethical issues within parliament. Also, there was no mandatory "cooling off" period for former MPs and there were gaps in the law on lobbying.

There have not been any changes in the legislation covering the integrity of MPs. Despite calls from the OSCE and the CSOs, Parliament has not yet adopted a binding Code of Ethics for its members as opposed to the instances of MPs ethical misdeeds such as use of offensive language and physical assaults on colleagues that still remain unsanctioned.⁹⁷ A senior MP interviewed by TI Georgia suggested, however, that the Code of Ethics alone and the sanctions that it might impose cannot solve ethical problems of MPs and that it would be better to delegate the oversight function on such issues to the general public.⁹⁸ A "a cooling-off" period has not been introduced and the law on lobbying has not been amended.

The situation is therefore identical to the one in 2011, so the indicator score remains unchanged.

Integrity (Practice)

2015 score: 50 (2011 score: 50)

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

The 2011 NIS report noted that, despite the sound legal framework, there had been very few instances of legislators being sanctioned for the violation of integrity rules and it was not clear whether this was a result of a lack of violations or of the legislature's failure to react to violations. Asset declarations of the MPs were not examined for accuracy in practice.

These problems related to the Parliament's failure to sanction its members for their misconduct also persist today. While less frequent than before, there have been occasional instances of MPs skipping parliamentary sessions, casting votes for their colleagues, or failing to declare their corporate shares and assets, actions that did not result in any sanctions against the offenders.⁹⁹ For instance, nine MPs - seven of whom were from the ruling Georgian Dream coalition - failed to include important information on their assets in their declarations, according to October 2013 data by Transparency International Georgia (TI Georgia). Parliament did not take any actions in response.¹⁰⁰ Neither have there been any sanctions imposed on those MPs who insulted their colleagues or made discriminatory statements against minority groups.¹⁰¹

The situation is therefore essentially the same as in 2011, so the indicator score remains unchanged.

⁹⁷ <http://transparency.ge/en/post/report/georgias-parliamentary-code-ethics-need-reformation/> (accessed on 15 March 2015)

⁹⁸ Khmaladze, op cit

⁹⁹ Vardosanidze, Sartania and Todua, op cit

¹⁰⁰ Transparency International Georgia, *The Performance of the Georgian Parliament*, 33-36

¹⁰¹ <http://www.netgazeti.ge/GE/105/News/26216> (accessed on 15 March 2015)

Role: Executive Branch Oversight (Law and Practice)

2015 score: 25 (2011 score: 25)

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

According to the 2011 NIS Assessment, the legal framework (including the Constitution) provided the Georgian Parliament with a number of potent tools for exercising oversight of the executive branch, including the right to set up investigative commissions, to send questions to ministers, and to summon them to the legislature. However, the legislature did not use them effectively in practice due to the parliamentary majority's close ties with the executive branch. Freedom House had noted that Parliament usually adopted a passive role in the legislative process and rarely scrutinized the government's activities, inter alia, through the establishment of special commissions.

The mechanisms of Parliament's control over the Executive have remained underutilized despite the fact that opposition MPs are active in debating draft laws submitted by the Executive during the parliamentary sessions. For instance, while Parliament continues to be involved in the budget drafting process and decides on the allocation of budget expenditures, it still has no power to amend the Executive's Budget Proposal.¹⁰²¹⁰³ Another major challenge is weak responsiveness of Executive agencies, especially the Ministry of Internal Affairs (MIA) and the Prosecutor's Office, to the questions submitted by MPs but also inaccuracy and inadequacy of information provided in their responses. As one of the MPs said, she sent 52 questions to different Executive agencies enquiring about the salaries and bonuses of senior public officials but did not receive adequate answers to her questions.¹⁰⁴ In addition, the ministers who are called to parliamentary hearings to answer MPs' questions tend to send their deputies or other representatives for this purpose instead of providing responses themselves. Under the current legislation, the Prime Minister and the government members are not required to come to the Parliament and respond to the questions of MPs as part of the so called Government Hour in the Parliament, which is a common practice in other countries.¹⁰⁵

Furthermore, Parliament has not applied its investigative mandate actively in practice. For example, Parliament refused to establish an investigative commission to examine possible irregularities in the mining operations conducted at the Saqdrisi archaeological site.¹⁰⁶ There was only one commission established in Parliament, on 1 May 2013, on the case of corruption allegations against Georgian National Communications Commission (GNCC).¹⁰⁷ However, this case concerned the GNCC activities under the previous government.

¹⁰² The Constitution of Georgia, Article 49 (4)

¹⁰³ Khmaladze, op cit

¹⁰⁴ Gogorishvili, op cit

¹⁰⁵ Khmaladze, op cit

¹⁰⁶ <http://www.radiotavisupleba.ge/content/interviu/26883273.html> (accessed on 30 April 2015)

¹⁰⁷ <http://www.media.ge/ge/portal/news/302332> (accessed on 15 March 2015)

Despite calls from civil society organizations, Parliament has so far failed to take effective steps to end the practice of abuse of secret surveillance by law enforcement agencies by introducing appropriate regulations.¹⁰⁸

On a positive note, in September 2014, the Parliamentary Committees on agriculture and environment made a negative assessment of the government's six month in-year report on the execution of the 2014 state budget due to the latter's failure to meet the expenditure targets for that period.¹⁰⁹ This has signalled the willingness of the Parliament to take a more proactive role in monitoring the government's spending of public funds.

Overall, there has not been a significant change in this area since 2011, so the indicator score remains unchanged.

Role: Legal Reform

2015 score: 50 (Law and Practice) (2011 score: 50)

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

The 2011 NIS Assessment noted that, while the Georgian Parliament had adopted a number of laws and legislative amendments designed to reduce corruption and improve governance (including important amendments to the Law on Conflict of Interest and Corruption in Public Service, as well as entirely new laws on public procurement, supreme audit institution, and internal audit), the legislature was not reviewing their implementation in practice and did not participate actively in the general anti-corruption policy.

Parliament has made some limited efforts to improve the country's anti-corruption legislation since 2011. Most notably, the amendments to the Law on Conflict of Interest and Corruption in Public Service adopted in February 2014 expanded the list of public officials who are required to file annual asset declarations to include a number of important offices in the local government.¹¹⁰ Still, overall, Parliament has remained passive in terms of involvement in anti-corruption policy and the majority of the gaps in Georgia's legal framework identified in the 2011 NIS Assessment are yet to be addressed.

The indicator score therefore remains unchanged.

¹⁰⁸ <http://transparency.ge/en/post/general-announcement/members-working-group-drafting-legislative-amendments-secret-surveillance-appeal-Chairman-Parliament> (accessed on 15 March 2015)

¹⁰⁹ <http://www.radiotavisupleba.ge/content/angarishi-biujetis-shesakheb/26579805.html/> (accessed on 15 March 2015)

¹¹⁰ The Law on Conflict of Interest and Corruption in Public Service. The amendments were adopted on 5 February 2014.

Executive Branch

Summary

Georgia's executive branch continues to receive generous funding from the state budget. However, its human resources' capacity has suffered following mass dismissals from Government agencies after the 2012 parliamentary elections. The Government's independence has decreased because of informal external influence. There have been improvements in the Government's transparency and accountability, but problems remain in terms of the enforcement of integrity rules in practice. The executive branch has implemented a number of anti-corruption initiatives but has failed to create a strong institutional framework for anti-corruption policy. Public sector reform remains incomplete.

Executive Branch Overall Pillar Score: 67/100 (2011: 69/100)			
Dimension	Indicator	Law	Practice
Capacity: 75/100 (2011: 92/100)	Resources		75 (2011: 75)
	Independence	100 (2011: 100)	50 (2011: 100)
Governance: 63/100 (2011: 54/100)	Transparency	75 (2011: 50)	50 (2011: 50)
	Accountability	75 (2011: 75)	50 (2011: 25)
	Integrity	75 (2011: 75)	50 (2011: 50)
Role: 63/100 (2011: 63/100)	Role (Public sector management)	50 (2011: 50)	
	Role (Legal system)	75 (2011: 75)	
Law and practice average		75 (2011: 70)	57 (2011: 61)

Structure and Organisation

The structure and the powers of Georgia's executive branch are established by the Georgian Constitution and the Law on the Georgian Government's Structure, Powers, and Rules of Operation. The Government is presently made up of the prime minister, 16 ministers, and three ministers of state (junior ministers who are in charge of offices rather than ministries). After parliamentary elections, the president nominates a candidate for the prime minister's office on the basis of the winning party's or coalition's proposal. The candidate for the prime minister's office then selects candidates for ministerial positions (either from inside or outside Parliament) and Parliament votes both on the government's composition and its programme.

Resources (Practice)

2015 Score: 75 (2011 Score: 75)

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

According to the 2011 NIS report, the funding allocated to the executive branch bodies in the state budget, which had increased considerably in the preceding years, made it possible for them to perform their functions appropriately. On the negative side, the frequent staff changes in government ministries and the resulting lack of job security could make the work there less attractive for qualified professionals.

The funding of executive branch agencies has remained stable. Compared with 2011, the amount of funding allocated to 11 (of the 16) government ministries had increased by 2014. The total funding of these ministries also increased from GEL 5.4 billion (USD 2.47 billion) in 2011 to GEL 6.6 billion (USD 3.02 billion) in 2014.¹¹¹ Average salary for the ‘public governance’ category within the public sector (which is the most relevant figure for the purposes of this assessment) increased from GEL 998 (USD 456) to GEL 1,152 (USD 527) (15%).¹¹²

The lack of job security remains a negative factor affecting the quality of human resources in the executive branch, as demonstrated by the mass dismissals from government agencies after the change of power in 2012. Over 5,000 employees were dismissed from public institutions (including ministries and their sub-agencies) and only a small minority of those who replaced them were recruited through competitive selection.¹¹³

The evidence since 2011 is therefore mixed: Funding of executive branch agencies has increased but there has been a major loss of human resources through mass dismissals. For this reason, the indicator score remains unchanged.

Independence (Law)

2015 score: 100 (2011 Score: 100)

To what extent is the executive independent by law?

The 2011 NIS Assessment concluded that Georgia’s legal framework did not contain any provisions that would unduly restrict the activities of the executive branch or allow excessive intervention of other institutions in its operation. Moreover, the executive branch enjoyed unrivalled power under Georgia’s constitutional setup.

No provisions that would restrict the executive branch’s independence have been added to the legal framework since 2011.

The indicator score therefore remains unchanged.

Independence (Practice)

2015 score: 50 (2011 Score: 100)

To what extent is the executive independent in practice?

¹¹¹ <http://mof.gov.ge/4625/>; <http://mof.gov.ge/5233/> (accessed on 16 March 2015)

¹¹² http://geostat.ge/?action=page&p_id=148&lang=geo/ (accessed on 16 March 2015)

¹¹³ <http://transparency.ge/en/post/press-release/ti-georgia-releases-new-report-changes-civil-service-after-2012-parliamentary-elections> (accessed on 16 March 2015)

The 2011 NIS Assessment noted that the executive branch was the strongest institution in Georgia in practice and that there had been no cases of undue external intervention in its activities.

Since late 2013, signs of possible informal rule have become evident. Billionaire Bidzina Ivanishvili was elected prime minister in late 2012 but resigned in November 2013. Despite his resignation, Ivanishvili appears to continue to play an important role in decision-making, which is problematic since he holds no formal office and is therefore exempt from the accountability mechanisms established by the law. A group of Georgian CSOs highlighted this issue in a September 2014 statement, noting that “signs informal governance have become evident as an individual without any official authority or capacity has been taking a significant part in the decision-making process and exerting influence onto high officials.”¹¹⁴ President Margvelashvili also made a statement, noting that the “country should be run through strong institutions rather than from the behind the scene.”¹¹⁵ In an August 2014 opinion poll, 50 per cent of the respondents agreed with the statement that Ivanishvili “continues to be a decision-maker” in the government, while only 17 per cent agreed with the opposite.¹¹⁶

The emergence of informal external influence over the executive branch is an important negative change, so the indicator score has decreased from 100 in 2011 to 50 in 2015.

Transparency (Law)

2015 score: 75 (2011 Score: 50)

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

The 2011 NIS report noted that there were some “robust” mechanisms in place for ensuring transparent operation of the executive branch, as well as the transparency of its budget, although there were gaps concerning the public’s access to information about the context of cabinet meetings and discussions. For example, there was no legal requirement for the cabinet to produce and publish the minutes of its meetings. The law required public disclosure of the assets of government officials but did not contain any provisions regarding the verification of their content.

In an important positive development, a list of the types of information to be published proactively by executive branch agencies was adopted through a government decree in 2013. The regulation applies to the following categories: general information about respective agencies (e.g. structure, functions, strategies, action plans and annual reports, contact information), guidelines on access to public information, information on staff, procurement and privatization data, information on

¹¹⁴ <http://transparency.ge/en/post/general-announcement/confrontations-between-government-and-president-damaging-country> (accessed on 16 March 2015)

¹¹⁵ <http://www.tabula.ge/ge/story/89344-prezidenti-qvekana-dzlieri-institutebit-unda-imartebodes-da-ara-kuluarebidan> (accessed on 16 March 2015)

¹¹⁶ https://www.ndi.org/files/NDI_Georgia_August-2014-survey_Public-Issues_ENG_vf.pdf (accessed on 16 March 2015)

financing and spending, and legal acts.¹¹⁷ At the same time, the OECD ACN has suggested that the scope of proactive publication requirement should expand (to include information on draft legal acts, public registry of public information held by every agency, and a schedule of all open meetings held by agencies) and should be included in a law rather than being established through secondary legislation (government decree).¹¹⁸

The government's new Rules of Procedure adopted in 2013 require that minutes of government meetings be produced and signed by the prime minister and the head of government chancellery.¹¹⁹ However, there is no requirement for the publication of these minutes. The legal provisions on asset disclosure have not changed since 2011.

Because of the improvement in the legal framework (the new regulations on proactive publication of information), the indicator score has increased from 50 in 2011 to 75 in 2015.

Transparency (Practice)

2015 score: 50 (2011 Score: 50)

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

According to the 2011 NIS report, the executive branch released some types of information proactively: Government decrees and decisions, budget, and the asset declarations of executive branch officials were available online (although there was no mechanism for ensuring their accuracy). On the negative side, the websites of executive branch agencies did not provide sufficient information about the agencies and their activities, including general structure, roles of different units, legal acts, appeal procedures, procurement, recruitment and financing.

Executive branch agencies appear to be generally following the new legal requirement of proactive publication (described in the section above) A 2014 report by the Institute for Development of Freedom of Information (IDFI) found that 13 out of the total 16 government ministries had published over 90 per cent of the relevant types of information on their websites. However, IDFI also noted that the ministries mostly published the minimum amount information that would meet the requirements of the relevant legal provision instead of providing the information in a comprehensive manner that would ensure transparency and public access to important information about the government.¹²⁰ In another negative development, the results of another IDFI study showed that responsiveness to requests for public information deteriorated in the majority of executive branch agencies in 2014 compared with 2012-2013.¹²¹

¹¹⁷ <http://ogpgeoblog.files.wordpress.com/2013/09/e18393e18390e18393e18392e18394e1839ce18398e1839ae18394e18391e18390-219.pdf> (accessed on 16 March 2015)

¹¹⁸ OECD ACN, 2013, 79

¹¹⁹ The Georgian Government's Rules of Procedure, approved on 7 March 2013, Article 16

¹²⁰ <https://idfi.ge/ge/practice-of-e-request-of-public-information-and-proactive-disclosure-in-public-institutions> (accessed on 16 March 2015)

¹²¹ https://idfi.ge/en/open_data_report_6_summary (accessed on 16 March 2015)

The situation has not changed in terms of the disclosure of assets of government officials. Their asset declarations are still available online but a verification system has not been established.¹²²

Overall, despite the progress made in terms of proactive publication of information by government ministries, an increase in the indicator score cannot be justified because of the remaining problems described above, so the score remains the same.

Accountability (Law)

2015 score: 75 (2011 Score: 75)

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 2011 NIS Assessment noted that the Constitution and a number of laws established provisions concerning the executive branch's accountability. Parliament and the supreme audit institution had the legal power to oversee and review the executive branch's activities. On the negative side, this accountability was somewhat undermined by the provisions regarding the possibility of dissolution of Parliament in the event of a conflict with the executive branch, while some government ministries were temporarily exempt from the legal requirement to set up internal audit units.

The provisions in the legal framework concerning the executive branch's accountability have been retained and Parliament and the supreme audit institution still have the power to oversee the executive's activities. However, the constitutional provisions about the dissolution of Parliament remain problematic. In a positive development, constitutional amendments adopted in October 2013¹²³ removed the provision whereby the prime minister could raise the question of Parliament's confidence in the government over a proposed draft law and the legislature's refusal to pass the law would be equal to a no-confidence motion, creating the possibility for the dissolution of Parliament. However, on the negative side, the same October 2013 amendments introduced a new provision whereby Parliament's failure to adopt the state budget in the first two months of a fiscal year is also equal to a no-confidence motion and can also result in the dissolution of Parliament. The Venice Commission has noted that, while the former amendment is a positive change as it gives "greater freedom to Parliament in the adoption of legislation," the latter change is negative and will "further weaken the budgetary powers of parliament," especially since the legislature cannot amend the budget draft without the government's consent.¹²⁴

The legal provision postponing the establishment of internal audit units in some government ministries has expired, which is a positive development. However, as noted by the OECD ACN, "there are no formal mechanisms in place (like complaint to the higher level of the public administration, external approval of appointment/dismissal of the head of Internal Audit, etc.) that prevent interference of the head of institution into the internal audit activities."¹²⁵

¹²² OECD ACN, 2013, 51.

¹²³ <https://matsne.gov.ge/ka/document/view/2045059> (accessed on 16 March 2015)

¹²⁴ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)029-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)029-e) (accessed on 16 March 2015)

¹²⁵ OECD ACN, 2013, 61

Overall, there are still problems in the legal framework concerning the executive branch's accountability to Parliament and the operation of internal audit units, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 50 (2011 Score: 25)

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

According to the 2011 NIS report, the legal provisions concerning the executive branch's accountability were not applied effectively in practice because of the weakness and insufficient independence of Parliament and a number of other institutions, including the State Audit Office, as well as the lack of a proper system of internal audit.

There has been some improvement in the executive branch's accountability since 2011 as a result of the judiciary's and the supreme audit institution's better performance. The number of audits conducted by the State Audit Office in 2013 was significantly higher than in 2011 and the quality has also improved.¹²⁶ As for the judiciary, one notable case took place in May 2013 when the Tbilisi City Court revoked the finance minister's decree that threatened to establish a monopoly in the postal and courier services market.¹²⁷ Internal audit units have now been established in all executive branch agencies.¹²⁸

On the negative side, while internal audit units have now been established in the executive branch agencies, their performance has been poor. A 2013 report by TI Georgia on public internal financial control (PIFC) identified a number of serious problems in this area: Even the relatively better performing internal audit units found it difficult to identify risks and controls, eight government ministries violated PIFC and financial accountability legislation on a regular basis, while the law enforcement agencies did not act up the cases referred to them by internal audit units in a timely manner.¹²⁹ A 2013 assessment of the internal audit units by the State Audit Office produced similar findings.¹³⁰ Weakness of parliamentary oversight also continues to undermine the executive branch's accountability.¹³¹

Overall, while a number of serious problems remain, the improvements described above still merit an increase in the indicator score from 25 to 50.

¹²⁶ http://transparency.ge/sites/default/files/post_attachments/2013%20Audits%20by%20State%20Audit%20Office%20of%20Georgia.pdf (accessed on 16 March 2015)

¹²⁷ <http://www.tabula.ge/ge/story/71549-ti-saqartvelom-finansta-saministros-sasamartlo-procesi-mougo> (accessed on 16 March 2015)

¹²⁸ <http://www.oecd.org/corruption/acn/GeorgiaProgressUpdateApril2014ENG.pdf> (accessed on 16 March 2015)

¹²⁹ <http://transparency.ge/en/post/report/challenges-public-internal-financial-control-georgia> (accessed on 16 March 2015)

¹³⁰ <http://sao.ge/files/auditi/efeqtianobis-angarishi/shida-kontroli.pdf> (accessed on 16 March 2015)

¹³¹ See the chapter on the legislature

Integrity (Law)

2015 score: 75 (2011 score: 75)

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

The 2011 NIS Assessment concluded that Georgia's legal framework contained strong integrity provisions, including the rules on conflict of interest and acceptance of gifts, as well as sound provisions on whistleblower protection. On the negative side, there were no provisions on post-ministerial employment and the so-called revolving door appointments.

The legislation establishing integrity rules for the executive branch is largely the same as in 2011. The provisions on conflict of interest, gifts, and whistle-blower protection remain in place and the whistle-blower protection rules have improved, providing greater confidentiality and anonymity to the whistle-blowers, as well as increasing the scope of the reporting channels. No regulations have been introduced on post-ministerial employment or revolving door.

The indicator score remains unchanged.

Integrity (Practice)

2015 score: 50 (2011 score: 50)

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

The 2011 NIS report noted that Georgia did not have an established mechanism for monitoring the application of integrity rules in practice. There had been no publicized cases of conflict of interest in the government, although this could have been a result of a lack of monitoring as well as a lack of such cases. The revolving door was an issue in practice as several high-ranking officials (including two prime ministers) had moved to the private sector immediately after leaving the government.

Georgia has not introduced a mechanism or established a dedicated body for the enforcement of the government integrity rules in practice since 2011. The revolving door remains an issue and there have been some notable cases of this phenomenon. Nika Gilauri resigned as Georgia's prime minister in June 2012 and established a private company operating in the energy sector shortly afterwards; the government signed a memorandum of understanding with his company within a month of its establishment.¹³² In the new government that came to power after the October 2012 elections, Kakha Kaladze was appointed minister of energy. At the time of his nomination, Kaladze had a direct or indirect stake in at least three private companies operating in the energy sector.¹³³ Several members of Prime Minister Bidzina Ivanishvili's cabinet formed in late 2012 had previously worked for his private companies.¹³⁴

The situation in terms of the executive branch's integrity in practice is therefore largely the same as

¹³² http://transparency.ge/sites/default/files/post_attachments/Businessmen%20in%20Politics%20and%20Politicians%20in%20Business,%20Problem%20of%20Revolving%20Door%20in%20Georgia.pdf (accessed on 16 March 2015)

¹³³ *Ibid.*

¹³⁴ *Ibid.*

in 2011 and the problems highlighted in the previous report have not been addressed, so the indicator score remains unchanged.

Role: Public Sector Management (Law and Practice)

2015 score: 50 (2011 score: 50)

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

According to the 2011 NIS report, the executive branch had achieved “significant improvements” in the management of the public sector through the increase in its funding and the eradication of low level corruption, although the development of an independent and professional civil sector was undermined by the executive branch’s excessive interference in its operation. There was no clear strategy for the overall reform of the public sector.

The public sector’s funding has increased further since 2011 and corruption in the field of public services remains low.¹³⁵ However the public sector’s lack of independence (resulting primarily from the executive branch’s excessive interference) and the lack of a general reform strategy have not been addressed.

The transfer of power from the United National Movement to the Georgian Dream coalition in late 2012 was followed by mass dismissals from public sector agencies,¹³⁶ indicating a persistent lack of commitment to the establishment of an independent, non-partisan and professional civil service. Reports of alleged cases of nepotism in some of the new public sector appointments are particularly worrying.¹³⁷

Meanwhile, the OECD ACN has also highlighted the lack of a “systemic reform based on a clear vision of the future of the civil service”, noting that the Civil Service Bureau’s limited powers prevent the body from ensuring “policy making, horizontal coordination and coherence of the civil service management.”¹³⁸

Overall, the situation is largely the same as in 2011, so the indicator score remains unchanged.

Role: Legal System (Law and Practice)

2015 score: 75 (2011 score: 75)

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

The 2011 NIS report noted that the Georgian Government had achieved impressive progress in fighting low-level corruption through a number of successful reforms. At the same time, some of the

¹³⁵ See the Public Administration chapter’s sections on resources and integrity for further information and sources.

¹³⁶ See the Public Administration chapter section on independence for further information and sources.

¹³⁷ <http://www.liberali.ge/ge/liberali/articles/114080/> (accessed on 16 March 2015)

¹³⁸ OECD ACN, 2013, 47, 53.

important pieces of anti-corruption legislation were not applied effectively in practice and opportunities remained for high-level corruption, inter alia, because of the executive branch's influence over the legislature and the judiciary and the resulting lack of government accountability.

The progress made by the former government in fighting low-level corruption has so far been retained as the level of reported bribery in public services remains low.¹³⁹ Additionally, the executive branch has implemented some important accountability initiatives, including the provisions on proactive publication of information.¹⁴⁰

On the negative side, the general institutional framework of anti-corruption policy remains weak. As noted in the sections above, there is no proper mechanism for the enforcement of the existing integrity regulations in practice, while the body responsible for designing the government's anti-corruption policies (the Interagency Coordinating Council for Combating Corruption which operates at the Ministry of Justice) does not have sufficient powers or resources.¹⁴¹ The government began working on a new anti-corruption action plan in 2013 (in a more inclusive manner than the previous government had done) but the work took nearly two years to complete.

Overall, the situation is very similar to the one described in the 2011 NIS report, so the indicator score remains unchanged.

¹³⁹ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 16 March 2015)

¹⁴⁰ <http://ogpgeoblog.files.wordpress.com/2013/09/e18393e18390e18393e18392e18394e1839ce18398e1839ae18394e18391e18390-219.pdf> (accessed on 16 March 2015)

¹⁴¹ OECD ACN, 2013, 26.

Judiciary

Summary

The Georgian judiciary has become relatively more independent compared with 2011 as indicated by an increase in the number of disputes won by private parties against government bodies; more proactive stance of judges vis-a-vis prosecutors in criminal trials; and the judiciary's willingness to review the executive branch's decisions in some cases. At the same time, some judges still appear to be susceptible to the government's pressure and political influence over the judiciary remains a problem. Public opinion surveys continue to indicate low citizen trust in the integrity of the judiciary. Transparency of the judiciary has increased through the introduction of new legal provisions allowing video and audio recording in courtrooms, as well as through proactive publication of certain types of information on the Supreme Court website. The judiciary's accountability continues to be undermined by the judges' failure to provide reasons for their decisions and the shortcomings of disciplinary procedures.

Judiciary Overall Pillar Score: 57/100 (2011: 43/100)			
Dimension	Indicator	Law	Practice
Capacity: 63/100 (2011: 56/100)	Resources	75 (2011: 75)	50 (2011: 50)
	Independence	75 (2011: 75)	50 (2011: 25)
Governance: 58/100 (2011: 50/100)	Transparency	75 (2011: 50)	50 (2011: 25)
	Accountability	75 (2011: 75)	25 (2011: 25)
	Integrity	75 (2011: 75)	50 (2011: 50)
Role: 50/100 (2011: 25/100)	Executive branch oversight	50 (2011: 25)	
Law and practice average		71 (2011: 63)	46 (2011: 38)

Structure and Organisation

Under the Georgian Constitution, the country's judiciary is made up of the Constitutional Court and the general courts.¹⁴²

The Constitutional Court is the "supreme judicial body of constitutional control", responsible for ensuring compliance of laws, international agreements and the by-laws issued by different government bodies with the Constitution and adjudicating disputes between different state bodies over their competencies. There are nine judges in the Constitutional court: the president, parliament and the Supreme Court each appoint three judges.¹⁴³

¹⁴² The Constitution of Georgia, Article 83.

¹⁴³ *Ibid.*, Articles 83, 88, 89.

General courts include district or city courts, the Court of Appeals and the Supreme Court.¹⁴⁴ The chairperson and judges of the Supreme Court are appointed by parliament upon the president's nomination.¹⁴⁵ Judges of the district and city courts and the Court of Appeals are appointed by the High Council of Justice - a body responsible for appointment and dismissal of judges, organising qualifying examinations of judges and developing proposals for the reform of the judiciary. The High Council of Justice is led by the chairperson of the Supreme Court and has 15 members appointed by the judiciary, the president and parliament.¹⁴⁶ The Conference of Judges is a self-governing body of judges that appoints the judiciary's representatives (Judge members) in the High Council of Justice.¹⁴⁷

Resources (Law)

2015 score: 75 (2011 Score: 75)

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

The 2011 NIS Assessment described Georgia's legal provisions on the judiciary's access to resources as "robust", noting that the law established salary rates for judges and protected them from arbitrary reduction of their remuneration. The law also guaranteed the involvement of the Supreme Court, the Constitutional Court and the High Council of Justice in the drafting of the judiciary's budget, although there were no provisions for the participation of general courts in the drafting of their respective budgets.

Since 2011, a major improvement from previous regulations covering the allocation of resources to the judiciary is the doubling of the salaries of judges. For instance, the judges of the court of the first instance now receive GEL 4,000 (USD 1,830) per month while those of the court of appellate – GEL 5,000 (USD 2,288).¹⁴⁸ However, the issue of pensions remains problematic, because while international best practices suggest that pensions should be as close as possible to the former salary of a judge, the current pensions of Georgian judges are substantially lower.¹⁴⁹

There are still no provisions in the law that would guarantee the involvement of general courts in the drafting of their budgets. The situation has improved somewhat through a greater role of the Conference of Judges in the appointment of the High Council of Justice which is responsible, among other things, for the drafting of the budget of general courts.¹⁵⁰

Higher salaries for judges and their greater role in the appointment of the High Council of Justice are important positive developments. However, there is still a need for legal provisions that would

¹⁴⁴ The Law on General Courts, adopted on 4 December 2009, Article 2.

¹⁴⁵ The Constitution of Georgia, Article 90.

¹⁴⁶ The Organic Law of Georgia on General Courts, Article 47.

¹⁴⁷ *Ibid.*, Article 63.

¹⁴⁸ The Law on Salaries of Judges of General Courts, adopted on 23 December 2005, Article 1.

¹⁴⁹ TI Georgia's interview with Eva Gotsiridze, (non-judge) Member of the High Council of Justice, 17 April 2014

¹⁵⁰ The Law on General Courts, Articles 65 (2), 66 (2) and 67

guarantee the involvement of general courts in the budgeting process, so the indicator score remains unchanged.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

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

According to the 2011 NIS Assessment, the amount of resources available to the Georgian judiciary had “increased considerably” in the preceding years. Judges' salaries were adequate and courts had proper infrastructure, equipment and numbers of support staff. The report noted, however, that, according to some sources, lower-level courts did not always receive enough funding because of their limited role in drafting their own budgets and courts appeared to be overburdened due to an insufficient number of judges.

Aside from salaries, the budget allocations for courts have not changed significantly over the past few years. The only major exception is the construction of a new building for High School of Justice for which GEL 300, 000 (USD 137,306) was allocated from the state budget.¹⁵¹ The number of courtrooms is insufficient, particularly in the Tbilisi City Court. Additionally, not all of the judges have separate secretaries and assistants, and, often, one and the same person is fulfilling both tasks. Considering that these two positions have divergent duties, they cannot be combined effectively.¹⁵²

Insufficient number of judges and the resulting delays in the adjudication of cases remain a problem both according to the Ombudsman¹⁵³ and some CSOs.¹⁵⁴

The key problems highlighted in the 2011 NIS report have thus not been addressed, so the indicator score remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent is the judiciary independent by law?

The 2011 NIS assessment noted that Georgia had a number of legal provisions designed to safeguard the independence of the judiciary. The powers of the judiciary were anchored in the Constitution. An attempt to pressure judges or interfere in their work was a criminal offence and judges enjoyed immunity from prosecution. Judges were prohibited from joining political parties or engaging in parallel paid work. At the same time, judicial independence was undermined by the lack of lifetime

¹⁵¹ TI Georgia's interview with Levan Murusidze, secretary of the High Council of Justice, 28 March 2014

¹⁵² Gotsiridze, op cit

¹⁵³ <http://ombudsman.ge/uploads/other/1/1563.pdf> (accessed on 16 March 2015)

¹⁵⁴ <http://www.polity.ge/opinion/societe/3462-mosamartleebi-samartalcarmoebis-vadebs-uxesgad-arghveven.html> (accessed on 16 March 2015)

appointment of judges, as well as some legal provisions concerning the composition of the High Council of Justice and the appointment of judges. Most notably, political appointees in the High Council of Justice were able to veto judicial appointments, while the Supreme Court chairman had the exclusive power of nominating candidates for the High Council of Justice membership at the Conference of Judges.

Based on the Council of Europe recommendations, the composition of the High Council of Justice has changed since 2012. It now has 15 members of which nine are judges (eight of whom are elected by the Conference of Judges and the ninth is the Supreme Court chairperson) and six are representatives of the civil society and academia. The five non-judge members are appointed by the Parliament and one by the President. At least 10 votes are needed for the Council to adopt a decision.¹⁵⁵ A major controversy between the Georgian Dream (GD)-led government and the former ruling party of United National Movement (UNM) over those new amendments was the fact that the mandate of previously elected members of High Council of Justice was automatically suspended after the amendments entered into force. The Venice Commission warned against such retroactive application of laws against the Council's lawfully elected members.¹⁵⁶

Furthermore, the judges now have a more prominent role in forming the High Council of Justice, a supreme body responsible for the administration of justice in Georgia. Under the current setup, each individual judge of the Conference of Judges can, by secret ballot, nominate and elect the members of the High Council of Justice. The Head of the Supreme Court no longer has the exclusive right to nominate the members of the High Council of Justice; the Administrative Committee of the Conference of Judges no longer exercises decision-making powers that exclusively belong to the Conference of Judges.¹⁵⁷ The parliamentary and presidential appointees no longer enjoy a formal veto over judicial appointments, although the votes of the nine judge members of the Council are still not enough for an appointment since appointments are made by a two-thirds majority (10 votes) — resulting in an effective veto.¹⁵⁸

At the same time, the amended law has limited the possibility for the secondment of judges to other courts since (as noted in the 2011 NIS report's section on independence in practice) the practice was previously reportedly used as a punishment mechanism for those judges whose decisions were unfavourable to the ruling party. Under the new regulations, the High Council of Justice needs to provide a reasoned explanation why the secondment is required, and must obtain the consent of a judge in order for the secondment to happen. In addition, the law has limited the term for which a judge can serve in another court.¹⁵⁹

The new amendments also entail that judges can be appointed for life only after they successfully pass a three-year probation period, a change that aims to strike the right balance between the

¹⁵⁵ The Law on General Courts, Article 47 (2)

¹⁵⁶ [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)007-e) (accessed on 16 March 2015)

¹⁵⁷ The Law on General Courts, Article 65

¹⁵⁸ The Law on General Courts, Article 50 (3)

¹⁵⁹ *Ibid.*, Article 44 (1)

judges' independence and accountability before and during their appointment for life.¹⁶⁰¹⁶¹ However, the introduction of the trial period was controversial due to the danger that it might compromise the judges' independence.¹⁶² The Council of Europe, for instance, called on the Georgian Parliament "to contemplate considerably lowering the three-year probation period for judges to be appointed to a life term of office, in order to bring it into line with European standards."¹⁶³ The Venice Commission and a coalition of Georgian CSOs also criticized this decision.¹⁶⁴ An alternative solution proposes introduction of necessary qualification exams for judges before their appointment as opposed to having a trial period.¹⁶⁵

The changes in the legal provisions concerning the composition of the High Council of Justice, judicial appointments, and secondment of judges are an important step forward. However, the indicator score remains unchanged because of the controversial provision regarding the three-year probation period for judges prior to lifetime appointment.

Independence (Practice)

2015 score: 50 (2011 Score: 25)

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

According to the 2011 NIS Assessment, the Georgian judiciary was not independent in its handling of criminal cases or the cases where the government's interests were at stake. The judiciary was among the least trusted institutions in the country, most likely due to the Prosecutor's Office's strong influence over judges in criminal trials (resulting in an extremely low acquittal rate), favourable treatment of defendants with links to the government, and pro-government bias in the adjudication of electoral disputes. There were concerns over the transparency of judicial appointments, while secondment to remote courts was allegedly used as a way of punishing judges. On the positive side, the report noted that the judiciary was generally independent in its handling of civil disputes, judicial immunity was respected in practice and early dismissal of judges was rare.

Both quantitative information and qualitative assessments indicate a certain improvement in terms of the independence of the judiciary. As far as statistics are concerned, the acquittal rate in criminal cases has been higher over the last three years compared to the period covered in the 2011 NIS report (0.1 per cent in 2009 and 0.2 per cent in 2010, 2.5 per cent in 2011 versus 7.8 per cent in 2012, 3.2 per cent in 2013 and 3.3 per cent in 2014).¹⁶⁶ In terms of the quality of the judicial process,

¹⁶⁰ The Law on General Courts, Article 36 (4)

¹⁶¹ Gotsiridze, op cit

¹⁶² TI Georgia's interviews and email correspondence with Levan Murusidze, Zaza Meishvili, and Tamar Gvaramadze on 28 March, 7 April and 25 April of 2014

¹⁶³ Parliamentary Assembly of Council of Europe, "The functioning of democratic institutions in Georgia", *Resolution 2015 (2014) Provisional version*, 1 October 2014.

¹⁶⁴ <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282010%29028-e;>
http://www.coalition.org.ge/article_files/189/Coalition_Statement_September_2013_2.pdf (accessed on 16 March 2015)

¹⁶⁵ Murusidze, op cit

¹⁶⁶ <http://www.supremecourt.ge/statistics/> (accessed on 16 March 2015)

while almost all motions filed by the Prosecutor's Office in court were previously granted,¹⁶⁷ the situation has changed for the better since then and judges have started to examine the prosecutors' motions in more detail, as opposed to granting them automatically as was done in the past. The prosecutors are now requested to answer judges' questions and provide more evidence in order to support their motions.¹⁶⁸ For instance, due to insufficient evidence, courts have rejected the prosecution's motions on a number of occasions, including in high profile criminal cases involving former senior officials.¹⁶⁹

The rate of administrative court cases won by private parties against state bodies has increased substantially over the last few years: From 23.8 per cent in 2011 to 45.5 per cent in 2012, and 61.6 per cent in 2013.¹⁷⁰

Unlike the period covered in the 2011 NIS report, the OSCE/ODIHR Election Observation Mission has not highlighted a pro-government bias in the judiciary's handling of appeals during the 2012 parliamentary and the 2013 presidential election, which is another possible indicator of an improvement in terms of the judiciary's independence.¹⁷¹

The situation concerning the arbitrary secondment of judges to other courts has also improved. Firstly, the number of secondments has decreased considerably since 2011. For instance, while 42 judges were seconded to other courts in 2011, only 13 were seconded in 2013.¹⁷² Secondly, there have not been any cases following the change in the legislation when the judges have refused to accept secondments.¹⁷³

On the negative side, the practice of transferring some cases to the courts that are more likely to make decisions favourable to the government is still present. This was evidenced when the case of the former Prime Minister Vano Merabishvili was transferred from Tbilisi City Court to Kutaisi City Court which made the decision to keep Merabishvili in pre-trial detention.¹⁷⁴¹⁷⁵ Another prominent case with a similar outcome and involving the staff of Tbilisi Mayor's Office was transferred from Tbilisi to Rustavi District Court.¹⁷⁶ A 2014 trial monitoring report by the OSCE ODIHR also highlighted non-transparent allocation of cases between different judges and transfer of judges between courts as "elements casting doubt of judicial independence."¹⁷⁷

¹⁶⁷ TI Georgia's interview with Tamar Gvaramadze, Executive Director of Georgian Young Lawyers Association, 25 April 2014

¹⁶⁸ Gotsiridze, op cit

¹⁶⁹ Transparency International Georgia, *The Second Trial Monitoring Report of High-Profile Criminal Cases*, 2014, pp.14-23

¹⁷⁰ <http://www.supremecourt.ge/statistics/> (accessed on 16 March 2015)

¹⁷¹ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*; OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, OSCE/ODIHR Election Observation Mission Final Report, Warsaw, 14 January 2014

¹⁷² Transparency International Georgia, *Second monitoring report on the activities of the High Council of Justice*, 18 February 2014, pp. 16-17

¹⁷³ Murusidze, op cit

¹⁷⁴ <http://www.interpressnews.ge/ge/samartali/266553-vano-merabishvili-quthais-sasamarthlosthvis-thbilisshi-erthi-othakhis-gamoyofas-ithkhovs.html?ar=A> (accessed on 16 March 2015)

¹⁷⁵ <http://www.civil.ge/eng/article.php?id=26097> (accessed on 16 March 2015)

¹⁷⁶ <http://civil.ge/eng/article.php?id=26228> (accessed on 16 March 2015)

¹⁷⁷ <http://www.osce.org/odihr/130676?download=true> (accessed on 16 March 2015)

Politicization of the judiciary remains potentially problematic. According to one expert interviewee, members of the High Council of Justice are divided into the so called “two sides” representing the supporters of the ruling Georgian Dream coalition and the former ruling party of the United National Movement who are often at odds with each other.¹⁷⁸

The qualitative and quantitative changes in the handling of criminal and administrative cases by the judiciary merit an increase in the indicator score from 25 in 2011 to 50 in 2015.

Transparency (Law)

2015 Score: 75 (2011 Score: 50)

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?

The 2011 NIS assessment noted that Georgia had a number of legal provisions designed to ensure transparent operation of the judiciary, including the Constitutional provision whereby court sessions were to be open and the provisions guaranteeing public access to judicial decisions and the minutes of court hearings. Asset declarations of judges were also publicly available. On the negative side, there was a ban on video recording in courtrooms and broadcast of court sessions, while journalists could only make audio recordings and transcripts with a judge’s permission. There were no legal provisions concerning proactive publication of certain types of information, including the information on appointments and dismissals.

The judiciary’s transparency has increased through the introduction of a number of important amendments to the Organic Law on Common Courts that were based on the recommendations of CSOs.¹⁷⁹ These amendments obliged the courts to allow audio, photo and video recording of trials, and provide these records to the public upon request. The Georgian Public Broadcaster has been granted unlimited right to record, except for cases when the court sessions need to be conducted behind closed doors. If the Public Broadcaster decides not to use its right to cover a court session, the right is assigned to one of the other TV stations.¹⁸⁰

The judge’s permission for making transcripts and audio recordings of trials is no longer required: The only remaining requirement is to inform the judge when the recording is taking place.¹⁸¹ At the same time, the decisions of a Disciplinary Board in charge of deciding on the conduct of judges should be published on the website of the High Council of Justice.¹⁸²¹⁸³ These amendments

¹⁷⁸ Gvaramadze, op cit

¹⁷⁹ http://www.coalition.org.ge/article_files/119/The%20judicial%20system%20in%20Georgia.pdf (accessed on 16 March 2015)

¹⁸⁰ The Law on General Courts, Article 13¹

¹⁸¹ *Ibid.*

¹⁸² The Law on Disciplinary Responsibility of Georgian General Court Judges and Disciplinary Proceedings Against Them, adopted on 23 February 2000, Article 81

¹⁸³ High Council of Justice, Decisions of Disciplinary Board, <http://hcoj.gov.ge/ge/saqrtvelos-saerto-sasamartloebis-mosamartleta-sadistsiplino-kolegiis-gadatskvatilebebi> (accessed on 16 March 2015)

commanded a great deal of support from stakeholders since they increased the transparency of the judiciary. On the negative side, comprehensive provisions regarding proactive publication of information are still missing.

On the whole, the improvements discussed in the paragraphs above (especially those concerning the media's access to courtrooms) merit an increase in the indicator score from 50 in 2011 to 75 in 2015.

Transparency (Practice)

2015 score: 50 (2011 Score: 25)

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

According to the 2011 NIS assessment, while court sessions were generally open to the public, the arrangement of courtrooms and the interference of court staff often made it difficult for journalists and NGO representatives to take notes. There was a mixed record in terms of availability of court session minutes and court decisions, as well as judicial statistics and budgets. The courts also did not perform well in terms of their responsiveness to FOI requests.

As a result of the amendments discussed in the section on law, courts have become more transparent in practice. CSOs are able to freely attend the meetings of High Council of Justice and enjoy unlimited access to court sessions. However, there are still problems with timely publication and the quality of court session agendas and minutes. While courts are now publishing more of their rulings online, they have developed a trend to publish those rulings that show the judiciary from the positive angle.¹⁸⁴ The Supreme Court has the best record in this regard which can be explained by the fact that the Court's decisions set an important precedent and that it usually has fewer cases to deal with compared to lower level courts.¹⁸⁵ The Supreme Court's website has been upgraded since 2011 and now contains a special section on public information (where certain types of information are published proactively) and a template for requesting public information electronically.¹⁸⁶

On the negative side, the 2014 OSCE ODIHR Trial Monitoring Report (which focused on high-profile cases involving prosecution of former public officials) identified a number of problems in terms of judicial transparency, noting that there was a "recurring lack of accurate information" about the date, time and place of hearings, members of the public were prevented from re-entering courtrooms or were denied access on the pretext of national security, while courts were inconsistent in their approach to allowing the recording of proceedings by the public and the media.¹⁸⁷

Overall, despite these problems, the positive changes discussed in the paragraph above merit an increase in the indicator score from 25 in 2011 to 50 in 2015.

¹⁸⁴ Gotsiridze, op cit

¹⁸⁵ Gvaramadze, op cit

¹⁸⁶ <http://www.supremecourt.ge/publicinformation/> (accessed on 16 March 2015)

¹⁸⁷ OSCE/ODIHR, *Trial Monitoring Report Georgia*, 7

Accountability (Law)

2015 score: 75 (2011 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 2011 NIS Assessment noted that Georgia's legal framework contained detailed provisions for complaints and disciplinary action against judges. Judges were required by the law to provide reasons for their decisions. On the other hand, the independence of the disciplinary panel was questioned and the Venice Commission had criticized Georgia for extending "near-total immunity from prosecution" to judges which covered all types of crime including corruption.

The legal provisions concerning the independence of the disciplinary panel have improved through an amendment which prohibits inclusion of members of the High Council of Justice (the body that starts disciplinary proceedings against a judge) in the Disciplinary Panel (the body that adjudicates these cases).¹⁸⁸ The provisions regarding the unlimited immunity for judges that were criticized by the Venice Commission have not been amended.

The amendments concerning the composition of the disciplinary panel are an important step forward but the indicator score remains unchanged because of the unlimited immunity of judges from prosecution (including prosecution from corruption-related crime) has been retained.

Accountability (Practice)

2015 score: 25 (2011 Score: 25)

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

The 2011 NIS Assessment identified the frequent failure of Georgian judges to provide reasons for their decisions as the main problem in terms of the judiciary's accountability in practice. Only a very small minority of complaints against judges were followed up by the High Council of Justice.

The Ombudsman's reports to Parliament in 2012 and 2013 highlighted the persistent problem of judges' failure to provide reasons for their decisions.¹⁸⁹ Against the background of heavy caseloads in Georgian courts, the number of judges and the level of their expertise remain generally low. For instance, there are cases where judges specializing in criminal law cases sign the decisions concerning the civil disputes and vice versa. As a result, these judges are often unable to provide reasoned evidence behind their decisions.¹⁹⁰ The 2014 OSCE ODIHR Trial Monitoring Report also noted that "numerous judgements neglect to thoroughly assess the evidence presented, and to

¹⁸⁸ The Law of Georgia on Disciplinary Responsibility of Georgian General Court Judges and Disciplinary Proceedings Against Them, Article 24.

¹⁸⁹ <http://ombudsman.ge/uploads/other/1/1934.pdf> ; <http://ombudsman.ge/uploads/other/1/1350.pdf> (accessed on 16 March 2015)

¹⁹⁰ Gotsiridze, op cit

provide an adequate level of legal analysis to explain how the fact established amounted to a criminal offence, and how they led to a specific sentence”.¹⁹¹

The vagueness of procedures for the timing and the grounds for disciplinary proceedings against judges also remain a problem. As a result, the hearing of many disciplinary cases has been suspended for an indefinite period of time.¹⁹² In fact, according to the High Council of Justice's statistical data for 2013, disciplinary proceedings had not been completed for 78 per cent of the cases the Council had received during that year.¹⁹³

Based on the findings described in the paragraph above, the indicator score remains unchanged.

Integrity (Law)

2015 score: 75 (2011 score: 75)

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

The 2011 NIS Assessment noted that Georgia had “extensive rules” designed to ensure the judiciary’s integrity. Along with the Rules of Judicial Ethics (which required Judges to remain politically impartial in their decision-making), judges were also required to follow the Law on Conflict of Interest and Corruption in Public Service, which imposed restrictions on gifts and involvement in business and established the requirement of asset disclosure, applied to judges too. On the negative side, there were no post-employment restrictions for the members of the judiciary.

The legal regulations concerning the integrity of the judiciary have not changed since 2011, so the indicator score remains unchanged.

Integrity (Practice)

2015 score: 50 (2011 score: 50)

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

The 2011 NIS Assessment noted that bribery had been virtually eliminated in the judiciary and judges received integrity training. However, the executive branch's undue influence over judges undermined the institution's integrity. Asset declarations of judges were posted on a dedicated website but there was no formal mechanism for the verification of their content.

The public's perception of the judiciary remains negative. In the 2013 Global Corruption Barometer survey, 51 per cent of Georgian respondents said that the judiciary was corrupt or extremely corrupt (the highest number for any Georgian institution included in the survey).¹⁹⁴ Only 13 per cent of

¹⁹¹ OSCE/ODIHR, *Trial Monitoring Report Georgia*, 10

¹⁹² *Ibid.*

¹⁹³ <http://hcoj.gov.ge/files/pdf%20files/Disciplinuri%20Statistika%202013%20clis.pdf> (accessed on 16 March 2015)

¹⁹⁴ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 16 March 2015)

Georgians rated the performance of the courts positively according to the public opinion survey conducted by National Democratic Institute for International Affairs (NDI) in April 2014.¹⁹⁵ According to the 2013 Caucasus Barometer survey, only 22 per cent of Georgian respondents trust or fully trust the judiciary.¹⁹⁶

A verification mechanism for the asset declarations of judges (as well as other public officials) has not been introduced.

Since there has been little change in the key areas of the judiciary's integrity highlighted in the 2011 NIS report, the indicator score remains unchanged.

Role: Executive Branch Oversight (Law and Practice)

2015 score: 50 (2011 score: 25)

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

According to the 2011 NIS Assessment, while the judiciary had “considerable legal powers” to oversee the activities of the executive branch, its ability to perform this role in practice was undermined by its lack of independence from the government. Freedom House had highlighted the pressure exerted on the judiciary by the Prosecutor’s Office, while expert interviewees had told TI Georgia that businessmen enjoyed no protection from courts in their disputes with the executive branch and that private parties were unlikely to win any cases against the state where influential government agencies or powerful political interests were involved.

The number of politically motivated cases involving the extortion of property of businessmen who were disfavored by the previous government has declined.¹⁹⁷ In administrative court hearings, as shown above, the state does no longer have an overwhelming advantage over private parties in achieving the successful outcome. For example, in the period between February 2013 and December 2013, the per centage of cases won by the state party in Tbilisi City Court dropped from 84.4 per cent to 63.7 per cent, whereas the per centage of those won in Batumi City Court and Khelvachauri District Court dropped from 87.1 per cent to 45.5 per cent, respectively.¹⁹⁸ In criminal cases, the judges' greater willingness to subject the prosecution's motions and evidence to greater scrutiny (described in the section on independence in practice) is another example of improved oversight. In an important example of the judiciary's greater willingness to review the executive branch's decisions, the Tbilisi City Court upheld Transparency International Georgia's appeal to revoke the finance minister's decree that threatened to establish a monopoly in the postal and carrier services

¹⁹⁵ <https://www.ndi.org/files/Georgia-April14-Survey-Political-English.pdf> (accessed on 16 March 2015)

¹⁹⁶ <http://caucasusbarometer.org/en/cb2013ge/TRUCRTS/> (accessed on 16 March 2015)

¹⁹⁷ Gvaramadze, op cit

¹⁹⁸ Transparency International Georgia, *Third Court Monitoring Report on administrative cases revealed significant improvements, but many problems still remain*, 8 April 2014, 5

market in May 2013.¹⁹⁹ In 2014, the judiciary also suspended the Culture Ministry's decision that had allowed mining operations at the Saqdrisi cultural heritage site.²⁰⁰

On the negative side, judges remain reluctant to apply their inquisitorial powers in practice: to provide parties with instructions and recommendations, to show more initiative in obtaining additional evidence, and to contribute to the settlement of the disputes under consideration. The application of such powers on the part of judges is highly important since, under the current regulations, there is no legal aid available to private parties who are not able to afford an attorney to represent them in administrative litigation.²⁰¹ Overall, despite the improvements, the remaining problems in terms of the judiciary's independence prevent it from adopting a more proactive role vis-à-vis the executive branch.

On the whole, in spite of the persisting problems, the positive developments highlighted above justify an increase of the indicator score from 25 in 2011 to 50 in 2015

¹⁹⁹ <http://www.tabula.ge/ge/story/71549-ti-sagartvelom-finansta-saministros-sasamartlo-procesi-mougo> (accessed on 16 March 2015)

²⁰⁰ <https://gyla.ge/geo/news?info=2134> (accessed on 30 April 2015)

²⁰¹ Transparency International Georgia, *Third Court Monitoring Report on administrative cases revealed significant improvements, but many problems still remain*, 5

Public Administration

Summary

The legal provisions designed to protect the public sector's independence have improved since 2011 but civil servants are still not sufficiently independent and protected from political influence in practice. Accountability of public administration is ensured through the operation of the judiciary and the State Audit Office, although internal audit units of public sector bodies are ineffective. Georgia's legal provisions on public administration's integrity are generally strong but are not enforced effectively in practice and there is evidence suggesting that favoritism and nepotism are a growing problem in public sector appointments. Georgia operates a transparent online platform for public procurement but the system's effectiveness is undermined by loopholes in the law which allow for unreasonable exceptions to open bidding.

Public Administration Overall Pillar Score: 52/100 (2011: 50/100)			
Dimension	Indicator	Law	Practice
Capacity: 50/100 (2011: 42)	Resources		50 (2011: 50)
	Independence	75 (2011: 50)	25 (2011: 25)
Governance: 63/100 (2011: 67)	Transparency	75 (2011: 75)	50 (2011: 50)
	Accountability	75 (2011: 75)	75 (2011: 75)
	Integrity	75 (2011: 75)	25 (2011: 50)
Role: 42/100 (2011: 42)	Public education		25 (2011: 25)
	Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption		50 (2011: 50)
	Reduce Corruption Risks by Safeguarding Integrity in Public Procurement	50 (2011: 50)	
Law and practice average		70 (2011: 65)	44 (2011: 47)

Structure and Organisation

Georgian law defines "public service" as the work in central and local government agencies that are financed by the state. The law lists a number of bodies that comprise the public service and separate pieces of legislation on other bodies also identify them as a part of the public service. This chapter also examines the Legal Entities of Public Law (semi-independent bodies performing various public functions under the general supervision of the state), many of which play important roles on behalf of the state. Furthermore, as some of the Legal Entities of Public Law perform a number of important public service roles delegated to them by government ministries and departments, they are required to follow the provisions of the Law on State Procurement and are monitored by

Georgia's supreme audit institution, the State Audit Office (see the relevant chapter for further information).

The Civil Service Bureau is the body responsible for facilitating the development of a uniform state policy on public service and coordinating the relevant activities. The Bureau is also responsible for coordinating the management of human resources in public agencies, collecting asset declarations of public officials, analyzing the state of affairs in public service and presenting relevant recommendations to the legislature.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

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

The 2011 NIS report noted that the funding of public administration had improved since 2004 and public servants received their salaries on time, although many agencies were still underfunded, especially at the local government level. Low level of independence of civil servants and especially the insecurity in job tenure were also a drain on institutional knowledge and prevented some public bodies from building expertise

The average salary in the public sector has increased from GEL 589 in 2011 to GEL 738 (USD 269 to USD 337) in 2013, i.e. by 25%. The average salary in the private sector increased from GEL 670 to GEL 795 (USD 306 to USD 363) during the same period of time, i.e. by 18%. The average salary for the 'public governance' category within the public sector (which is the most relevant figure for the purposes of this assessment) increased from GEL 998 to GEL 1,152 (USD 456 to USD 527), i.e. by 15%.²⁰² It is worth noting that Georgia did not have inflation during this period of time. According to the country's official statistics body, the consumer price index actually decreased both in 2012 and 2013.²⁰³

The financing of local government bodies, which was highlighted as a problematic area in the 2011 NIS report, has generally remained unchanged, except for 2012 (the year of the last parliamentary elections) when the funding allocated to local government bodies was notably larger than the same figure for 2011, 2013, and 2014: GEL 1,149 million (USD 525 million) compared with GEL 796 million, GEL 761 million, GEL 787 million (USD 364 million, USD 348 million, and USD 360 million) respectively.²⁰⁴ The problem of insufficient independence and job insecurity have not been addressed (as discussed in more detail in the section on independence in practice below) and are likely to remain a negative factor affecting the public administration's human resources.

The evidence since 2011 is therefore mixed, so the indicator score remains unchanged.

²⁰² http://geostat.ge/?action=page&p_id=148&lang=geo (accessed on 16 March 2015)

²⁰³ http://geostat.ge/index.php?action=page&p_id=128&lang=eng (accessed on 16 March 2015)

²⁰⁴ <http://mof.gov.ge/4979> (accessed on 16 March 2015)

Independence (Law)

2015 score: 75 (2011 Score: 50)

To what extent is the independence of civil servants safeguarded by law?

According to the 2011 NIS report, the legal framework contained a number of provisions designed to safeguard the independence of public servants. At the same time, there were insufficient safeguards against political interference in their work and there was no dedicated body for the protection of their rights. According to the OECD's Anti-Corruption Network for Eastern Europe and Central Asia (OECD ACN), the legal provisions gave excessive discretion to the senior officials of public agencies, making it possible for them to exert undue influence on public servants.

The legal framework still does not expressly prohibit political interference in the public administration's activities and there is still no dedicated body for the protection of civil servants' right. However, in a positive development, an amendment to the Law on Public Service was introduced whereby public servants can only be recruited through a competitive process, while the duration of temporary appointments (which can be made without competition) was limited to three months²⁰⁵ and detailed rules were introduced for organizing tests for public sector job applicants.²⁰⁶ In another positive development, forcing an individual to submit a resignation request is now a criminal offence under an amendment to the Criminal Code adopted in 2013.²⁰⁷

On the negative side, some of the positive changes in the law described above will not apply to local government bodies until July 2015.²⁰⁸ The changes in the local government law that made it easier to dismiss popularly elected mayors and heads of municipal administrations could also reduce their independence.²⁰⁹

Because of these positive changes in the legal framework, the indicator score has increased from 50 in 2011 to 75 in 2015.

Independence (Practice)

2015 score: 25 (2011 Score: 25)

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

The 2011 NIS report noted that Georgia's civil servants enjoyed few protections in practice as heads of public agencies had wide discretion in terms of appointments and dismissals. This had led to a situation where the public administration was politicized and the line between the ruling party and the public administration was blurred.

²⁰⁵ The Law on Public Service, Articles 29-30.

²⁰⁶ The Government of Georgia, The Decree of Approving the Rules for Testing of Civil Servants, adopted on 18 June 2014

²⁰⁷ The Georgian Criminal Code, adopted on 22 July 1999, Article 169

²⁰⁸ The Law on Public Service, Article 134⁴

²⁰⁹ <http://transparency.ge/en/post/general-announcement/statement-ngo-s-rights-and-duties-mayors-and-governors> (accessed on 16 March 2015)

Georgia's civil servants remain vulnerable to political influence and the improvements in the legal framework highlighted in the previous section are yet to be applied comprehensively in practice. According to the OECD ACN, the legislative amendments "have not been fully implemented yet" and "in practice, civil service has been heavily affected by political influence and its neutrality and impartiality were not insured."²¹⁰

Politically motivated dismissals of civil servants remain a serious problem in Georgia. After the 2012 parliamentary elections, 5,149 individuals were dismissed from civil service, while only 4 per cent of the 6,557 newly appointed civil servants were recruited through competition.²¹¹ Similar developments took place after the 2014 local elections as 155 people were dismissed from the Tbilisi City Hall in a little over a month.²¹²

The situation has therefore not improved in practice since 2011, so the indicator score remains unchanged.

Transparency (Law)

2015 score: 75 (2011 Score: 75)

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

According to the 2011 NIS Assessment, Georgia's legal framework contained strong provisions on the transparency of public administration, including those concerning the freedom of information, although there were gaps in terms of proactive publication of information by public agencies. High-level public service members (public officials) were required to file asset declarations that were available for public scrutiny. However, the law did not allow for verification of the content of asset declarations and the asset disclosure requirement did not apply to some important decision-makers in local government, including the majority of city council members.

There have been some improvements in the legal framework since 2011. General provisions on proactive publication of information and electronic requests for public information were added to the General Administrative Code in 2012.²¹³ Under these amendments, the types of information to be released proactively by different public institutions are to be defined through secondary legislation. The executive branch²¹⁴ and a number of local government bodies²¹⁵ have now adopted this type of secondary legislation. While these positive developments are important, the OECD ACN has recommended to create a uniform list of the types of information that are to be published

²¹⁰ OECD ACN, 2013, 49

²¹¹ <http://transparency.ge/en/post/press-release/ti-georgia-releases-new-report-changes-civil-service-after-2012-parliamentary-elections> (accessed on 16 March 2015)

²¹² <http://www.liberali.ge/ge/liberali/news/120417/> (accessed on 16 March 2015)

²¹³ The General Administrative Code of Georgia, adopted on 25 June 1999, Articles 27, 36-37

²¹⁴ <https://ogpgeoblog.files.wordpress.com/2013/09/e18393e18390e18393e18392e18394e1839ce18398e1839ae18394e18391e18390-219.pdf> (accessed on 16 March 2015)

²¹⁵ According to the official database of laws and by-laws (www.matse.gov.ge), at least 27 local government entities had adopted this type of regulations by 15 March 2015

proactively and to have this list included in the law (instead of having these types of information determined individually by different institutions through secondary legislation).²¹⁶

Rules for the allocation of bonuses in public sector agencies were adopted by the Government in 2014, rendering the overall system of remuneration in public service more predictable and transparent, although they do not apply to local government bodies.²¹⁷

A verification mechanism for asset declarations has not been introduced. Asset disclosure requirements were extended to a number of new positions in the local government under the amendments adopted in February 2012²¹⁸, although the majority of local council members are still excluded.

On the whole, while important improvements have been made to the legal framework since 2011, some problems remain and a maximum score of 100 cannot be justified, so the indicator score of 75 remains unchanged.

Transparency (Practice)

2015 score: 50 (2011 Score: 50)

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

The 2011 NIS report noted that legal provisions regarding the access to public information were implemented unevenly across the public sector as public agencies did not always provide information within the legal deadlines and withheld certain types of public information. Allocation of bonuses in public sector bodies was not transparent in practice and asset declarations of public officials were not verified for accuracy. Meanwhile, notable progress had been made in terms of the transparency of recruitment through the establishment of a special website for public sector vacancies.

The evidence concerning the accessibility of public information since 2011 is mixed, although it does point to a general positive trend. According to the data published by the Institute for Development of Freedom of Information (IDFI), central government agencies provided full answers to requests for public information in 39 per cent of cases before October 2012, 85 per cent of cases between October 2012 and September 2013, and 71 per cent of cases between October 2013 and March 2014. The share of requests that remained unanswered decreased from 35 per cent before October 2012 to 8 per cent by September 2013 and then increased to 13 per cent by March 2014.²¹⁹

Transparency of bonuses has not improved. According to the OECD ACN, “transparency and predictability of the remuneration of civil servants still remains a serious concern” as the procedure

²¹⁶ OECD ACN, 2013, 78-79

²¹⁷ <http://csb.gov.ge/uploads/24-4.pdf> (accessed on 16 March 2015)

²¹⁸ <https://matsne.gov.ge/ka/document/download/2239643/0/ge/pdf> (accessed on 16 March 2015)

²¹⁹ https://idfi.ge/ge/sajaro_informaciis_xelmisawvdomoba_centraluri_2013_2014 (accessed on 16 March 2015)

for determining salaries, bonuses and additional pay is “highly discretionary.”²²⁰ Public sector vacancies are announced through a centralized website and asset declarations of public officials (senior members of the public administration) are posted online but are not reviewed for accuracy.

Overall, according to the OECD ACN, the right of access to information has been “poorly enforced” in Georgia, inter alia, because of a lack of designated supervisory authority.²²¹

Despite some evidence pointing to the improvement in response rates to public information requests, Georgia’s public administration still faces serious problems in terms of transparency, so the indicator score remains unchanged.

Accountability (Law)

2015 score: 75 (2011 Score: 75)

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

The 2011 NIS report noted that there were multiple legal provisions for the accountability of public administration. Citizens could file complaints against the decisions of public agencies or challenge them in court. Public agencies were subject to auditing by the supreme audit institution, while Parliament could also require them to report on their activities. The Criminal Code contained sanctions for crimes committed in office and there were sound provisions for whistleblower protection. On the negative side, some public agencies (including local government bodies) were not required to establish internal audit units until 2013.

The legal framework is mostly the same as in 2011. The provision in the law which originally postponed the establishment of internal audit units in some public agencies has now expired and all public sector bodies are now required to have such units. On the negative side, the law does not establish any mechanisms that would protect internal audit units from undue interference of the heads of relevant agencies in their operation.²²²

Overall, there have been few significant changes in the legal framework since 2011, so the indicator score remains the same.

Accountability (Practice)

2015 score: 75 (2011 Score: 75)

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

²²⁰ OECD ACN, 2013, 54.

²²¹ *Ibid.*, 80.

²²² *Ibid.*, 61.

According to the 2011 NIS report, the accountability of public administration employees was generally ensured sufficiently in practice through the activities of the judiciary, the State Audit Office, and the Prosecutor's Office. There were, however, problems in terms of internal audit.

The judiciary's performance in terms of ensuring the public administration's accountability has improved further since 2011: The rate of administrative court cases won by private parties against state bodies has increased substantially over the last few years: From 23.8 per cent in 2011 to 45.5 per cent in 2012, and 61.6 per cent in 2013.²²³ The quality of the State Audit Office's audits has also improved (as discussed in more detail in the relevant chapter of this report).

On the negative side, internal audit units are not operating effectively. A 2013 assessment by the State Audit Office revealed "significant shortcomings" in the system. According to the assessment, internal audit reports did not comply with international standards, public agencies had failed to hire experienced internal auditors or to provide their internal auditors with sufficient training, while the structure of internal audit system was not compliant with the model recommended by the EU.²²⁴

On the whole, while some improvements have occurred since 2011, the weakness of internal audit system means that the indicator score cannot be raised to 100, so it remains unchanged at 75.

Integrity (Law)

2015 score: 75 (2011 score: 75)

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

According to the 2011 NIS report, Georgia had robust integrity rules for public administration members, established through the Law on Public Service and the Law on Conflict of Interest and Corruption in Public Service. These rules covered important areas such as conflict of interest, gifts, involvement in private business and post-employment restrictions. On the negative side, there was ambiguity in terms of the application of these rules to the legal entities of public law (LEPLs).

The legislative framework is largely the same as in 2011. The legal provisions remain ambiguous in terms of their application to the LEPLs. The Law on Conflict of Interest and Corruption in Public Service (which establishes regulations on conflict of interest, gifts, and asset disclosure for high-level members of the public administration) only applies to the heads and deputy heads of LEPLs in the part on asset disclosure.²²⁵ The Law on Public Service (which regulated the activities of all other members of the public administration) does not appear to apply to LEPL employees in its part that establishes integrity rules.²²⁶ Another gap in the legal framework is the fact that the integrity rules established through these laws do not apply to the majority of local council members (since they are

²²³ <http://www.supremecourt.ge/statistics/> (accessed on 16 March 2015)

²²⁴ <http://sao.ge/files/auditi/efegtianobis-angarishi/shida-kontroli.pdf> (accessed on 16 March 2015)

²²⁵ The Law on Conflict of Interest and Corruption in Public Service, Article 2.

²²⁶ The Law on Public Service, Article 11¹

not considered public officials) and there is no other primary or secondary legislation that would establish similar regulations for them.²²⁷

Since the situation is largely the same as in 2011, the indicator score remains unchanged.

Integrity (Practice)

2015 score: 25 (2011 score: 50)

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

The 2011 NIS report noted that, while the government had been very successful in eradicating bribery in the public administration, the broader integrity rules were not enforced effectively, inter alia, because of the lack of a dedicated agency that would monitor their application in practice.

Bribery levels in public administration remain low: In the 2013 Global Corruption Barometer survey, only 4 per cent of Georgian respondents reported that they or someone in their household had paid a bribe for public services in the preceding 12 months.²²⁸ However, beyond the issue of bribery, the existing integrity regulations (including the rules on conflict of interest, gifts, asset disclosure, and post-employment restrictions) are not enforced effectively, first and foremost, because of the lack of a dedicated institution responsible for monitoring their application in practice.²²⁹ In a particularly worrying development, allegations of favouritism and nepotism in public sector recruitment and appointments are made increasingly often.²³⁰ At least one high-ranking official from the government has suggested that competitive selection for public sector jobs is a “formality”,²³¹ while the leader of the parliamentary majority publicly stated that nepotism could be acceptable in certain situations.²³² Research conducted by nongovernmental organizations and the media shows that relatives or associates of high-ranking officials have been appointed to public sector jobs in multiple cases.²³³

Because of the evidence suggesting a growing problem of favoritism and nepotism in the public sector, the indicator score has decreased from 50 in 2011 to 25 in 2015.

Role: Public Education (Practice)

2015 score: 25 (2011 score: 25)

²²⁷ This was also the case in 2011 but was not highlighted in the previous NIS report.

²²⁸ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 16 March 2015)

²²⁹ OECD ACN, 2013, 51, 54.

²³⁰ <http://www.liberali.ge/ge/liberali/articles/114080/> (accessed on 16 March 2015)

²³¹ <http://www.bpn.ge/ekonomika/9751-nodar-javakhishvili-sakhelmtsifo-utsyebeshi-kadrebis-shesarchevi-konkursebi-formalobaa.html?lang=ka-GE> (accessed on 16 March 2015)

²³² <http://www.tabula.ge/ge/verbatim/92649-saganelidze-nepotizmis-mkacri-tsinaagmdegi-ar-var> (accessed on 16 March 2015)

²³³ See, for example: <http://www.netgazeti.ge/GE/105/News/16210/>; <http://transparency.ge/blog/ereva-tu-ara-eka-beselia-tvitmmartveli-kalak-potis-ekskluziur-uplebamosilebebshi?page=1>; <http://transparency.ge/blog/nepotizmis-nishnebi-chkhorotsqus-munitsipalitetsi>; (accessed on 16 March 2015)

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

According to the 2011 NIS report, the public administration did not actively engage in efforts to inform the general public about corruption and its impact. The public administration did not carry out any significant awareness-raising or educational activities in the field of anti-corruption policy.

The public sector's activities in terms of informing and educating the general public about corruption remain limited. Public education and awareness-raising were included in the priority areas of the new anti-corruption action plan²³⁴ (which is yet to be adopted) and the Ministry of Justice conducted a number of meetings in 2014 to inform the public about its activities and plans under the Open Government Partnership.²³⁵ However, these appear to be ad hoc activities, rather than part of any public education program, and the OECD ACN has noted a lack of "systematic information and awareness raising campaigns by the government targeting Georgian population."²³⁶

On the whole, while the public administration has become somewhat more active in terms of public education, the lack of appropriate programs and systemic efforts means that the situation is essentially the same as in 2011, so the indicator score remains unchanged.

Role: Cooperate With Public Agencies, CSOs and Private Sector in Preventing/Addressing Corruption (Practice)

2015 score: 50 (2011 score: 50)

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

The 2011 NIS report noted that there had been limited cooperation between the public sector, civil society and business on anti-corruption issues. CSOs had been invited to participate in the work of the Anti-Corruption Council but had had limited opportunities for providing their comments and opinion on the National Anti-Corruption Strategy, while the private sector had not been involved in the process at all.

Civil Society's involvement in the work of the Anti-Corruption Council has improved: Unlike the period of time covered in the last NIS report, CSOs were invited to contribute to the drafting of a new anti-corruption action plan from a very early stage of the process in 2013 and were asked to join several working groups tasked with drafting individual sections of the action plan in 2014.²³⁷

The private sector's involvement in anti-corruption initiatives remains limited. In a positive development, representatives of Georgia's largest business associations were invited to join the

²³⁴ <http://www.justice.gov.ge/Ministry/Index/171> (accessed on 16 March 2015)

²³⁵ <http://www.justice.gov.ge/Ministry/Department/349> (accessed on 16 March 2015)

²³⁶ OECD ACN, 2013, 20.

²³⁷ OECD ACN, 2013, 19-21; <http://www.oecd.org/corruption/acn/GeorgiaProgressUpdateApril2014ENG.pdf>

Anti-Corruption Council in 2013.²³⁸ However, according to a senior public sector official, the interest from private sector remains low.²³⁹

Overall, despite some improvements, the scale and the impact of the public sector's collaboration with the civil society and the private sector is still limited, so the score remains unchanged.

Role: Reduce Corruption Risks by Safeguarding Integrity in Public Procurement (Law and Practice)

2015 score: 50 (2011 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?

The 2011 NIS report noted that Georgia had recently introduced important amendments to the Law on Public Procurement whereby electronic bidding through a dedicated online platform was introduced. At the same time, there were some potentially problematic exceptions to the general requirement for open bidding. Audits conducted by the State Audit Office had revealed signs of procurement-related corruption in a number of public agencies.

Georgia presently operates a highly transparent system of public procurement where all stages of the procurement process take place through a dedicated website and are open to public scrutiny.²⁴⁰ The electronic tendering system has made it possible for civil society organizations to engage in extensive monitoring of public procurement. In another positive development, the State Procurement Agency started posting contracts concluded without open bidding to its website in 2013.²⁴¹ In 2012, the Georgian electronic procurement system received the UN Public Service Award (UNPSA) in the category of "Preventing and Combating Corruption in Public Service."²⁴²

Still, unreasonable exceptions to open bidding remain a serious matter of concern as they make it possible for a significant portion of government contracts to bypass the transparent e-procurement system: For example, in 2012, non-competitive contracts accounted for some 45 per cent of all money spent through public procurement.²⁴³ TI Georgia's review on noncompetitive contracts concluded before the 2012 parliamentary elections revealed multiple cases where companies with links to public officials were awarded large government contracts, as well as a worrying trend whereby the former ruling party received sizeable donations from companies that had received non-competitive contracts from public agencies.²⁴⁴ Other shortcomings of the system include the exemption of the government's and the president's special 'reserve' funds from the requirements of

²³⁸ OECD ACN, 2013, 23.

²³⁹ TI Georgia's interview with Maia Dvalishvili, Deputy Director of Civil Service Bureau, 22 August 2014

²⁴⁰ OECD ACN, 2013, 71.

²⁴¹ <https://tenders.procurement.gov.ge> (accessed on 16 March 2015)

²⁴² <http://www.unpan.org/Regions/AsiaPacific/PublicAdministrationNews/tabid/115/mctl/ArticleView/ModuleId/1467/articleId/31880/Default.aspx> (accessed on 1 August 2014).

²⁴³ Transparency International Georgia, *Simplified Procurement: Corruption Risks in Non-Competitive Government Contracts*, Tbilisi, December 2013, 9.

²⁴⁴ *Ibid.*, 2-3.

the procurement law and the overly specific tender requirements that frequently suggest that some supposedly open tenders may have been designed with specific suppliers in mind.²⁴⁵

Overall, while the successful operation of Georgia's online procurement platform and the publication of non-competitive contracts through the website since 2013 are important improvements, the indicator score remains unchanged because of the significant gaps in the law and the corresponding problems in practice.

²⁴⁵ Transparency International Georgia, *Georgia's Public Procurement System*, Tbilisi, June 2013, 5-6.

Law Enforcement Agencies

Summary

There have been few changes in Georgia's law enforcement agencies since 2011. The Internal Affairs Ministry and the Prosecutor's Office continue to receive generous funding from the state budget and the legal framework governing their activities is mostly sound. However, they are not sufficiently independent from the country's political leadership in practice and there are signs of informal external influence on the law enforcement agencies, while their transparency and accountability are not ensured in practice either. The law enforcement agencies remain effective in terms of combating some types of corruption (e.g. bribery) but their ability to tackle more complex forms of corruption at the higher levels of government is still undermined by their lack of independence.

Law Enforcement Agencies Overall Pillar Score: 64/100 (2011: 68/100)			
Dimension	Indicator	Law	Practice
Capacity: 67/100 (2011: 75/100)	Resources		100 (2011: 100)
	Independence	75 (2011: 75)	25 (2011: 50)
Governance: 50/100 (2011: 54/100)	Transparency	50 (2011: 50)	25 (2011: 25)
	Accountability	75 (2011: 75)	25 (2011: 25)
	Integrity	75 (2011: 100)	50 (2011: 50)
Role: 75/100 (2011: 75/100)	Corruption Prosecution	75 (2011: 75)	
Law and practice average		70 (2011: 75)	50 (2011: 54)

Structure and Organisation

The Ministry of Internal Affairs and the Prosecutor's Office are Georgia's main law enforcement agencies. The primary legal provisions governing their operation are included in the Law on Police, the Charter of the Ministry of Internal Affairs and the Law on Prosecutor's Office.¹

The Ministry of Internal Affairs, in its current form, was established through the merger of the Ministry of Security and the Ministry of Internal Affairs in 2004; it is involved in security/counterintelligence activities along with more conventional types of law enforcement. The Ministry of Internal Affairs directs the activities of a very centralized police system comprising both structural subunits performing specific roles (such as the patrol police and the criminal police) and territorial bodies tasked with exercising law enforcement in specific parts of the country (the Main Directorates operating in the capital and all of the provinces). The Border Police is also part of the Ministry of Internal Affairs system. The Ministry is responsible for providing security of the state and public order, as well as protecting human rights and freedoms.

The Prosecutor's Office is part of the Ministry of Justice. The Prosecutor's Office system consists of the Main Prosecutor's Office and the city, district and regional prosecutor's offices, as well as those of the Abkhazia and Ajara autonomous republics. Prosecution and preliminary investigation are the primary responsibilities of the Prosecutor's Office. Following a set of legislative amendments adopted in 2013, the minister of justice is no longer involved in prosecutorial work. The chief prosecutor has the exclusive authority to conduct prosecution against high-level officials, including the president, the chairpersons of the Supreme Court and the Constitutional Court, members of parliament, the Public Defender (Ombudsman) and the general auditor. The minister of justice proposes a candidate for the position of the chief prosecutor, who is appointed by the prime minister. The prime minister can also dismiss the chief prosecutor and the law does not establish specific conditions for this dismissal.

Resources (Practice)

2015 score: 100 (2011 Score: 100)

To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

According to the 2011 NIS report, the law enforcement agencies received generous funding from the state budget, which had made it possible to increase staff salaries and achieve major improvements in terms of infrastructure and equipment. The Ministry of Internal Affairs (MIA) was among the top recipients of state budget funds.

The law enforcement agencies continue to receive sufficient funding from the state budget, and are adequately staffed to fulfill their functions.²⁴⁶ In fact, the funding for both the MIA and the Prosecutor's Office has increased since 2011. The former is estimated to receive over GEL 600 million (USD 274 million) within the 2014 budget allocations, as opposed to GEL 585 million (USD 267 million) in 2012, while the latter would receive over GEL 32.5 million (USD 14.8 million), as opposed to GEL 18 million (USD 8.2 million) in 2012.²⁴⁷ Furthermore, the number of permanent staff of the Prosecutor's Office has also increased, specifically in the Investigations Department, followed by the increase in funding to accommodate the change.²⁴⁸ Therefore, the agencies are fully equipped to carry out their tasks.

The indicator score of 100 therefore remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent are law enforcement agencies independent by law?

²⁴⁶ TI Georgia's interview with Zaza Khatiashvili, the President of the Georgian Bar Association, 16 April 2014

²⁴⁷ <http://mof.ge/en/4537> (accessed on 20 March 2015)

²⁴⁸ TI Georgia's interview with Natia Mezvrishvili, Head of the Department of Supervision on the Prosecutorial Activities at the Territorial Bodies of the Ministry of Affairs, Chief Prosecutor's Office of Georgia, 25 April 2014

The 2011 NIS report noted that the legal framework contained robust provisions for ensuring independence of the law enforcement agencies. The law protected law enforcement officers from arbitrary dismissal and prohibited their involvement in political activities. At the same time, the fact that the Minister of Justice had direct prosecutorial powers created the danger of political influence over law enforcement work.

Following important changes in the law that were designed to increase the independence of the Prosecutor's Office and were adopted in 2013, the minister of justice no longer holds the position of general prosecutor²⁴⁹ and has no prosecutorial powers.²⁵⁰ However, the OECD ACN, while welcoming these changes, has criticized the fact that the minister of justice still plays an important role in the appointment of the chief prosecutor while also retaining "extensive powers with regard to internal structure, budgeting and remuneration of the prosecutor's office and prosecutors."²⁵¹ The OECD ACN has also highlighted "vague and too broadly formulated grounds for disciplinary liability and dismissal of prosecutors," noting that these could "undermine Prosecutor's Office capacity to autonomously investigate and prosecute corruption cases."²⁵² Similarly, the 2014 ODIHR Trial Monitoring Report on Georgia points out the lack of transparency and clear criteria for the appointment of Chief Prosecutor as one of the factors casting doubt on the independence of the body.²⁵³

Overall, despite improvements, the legal framework still does not fully guarantee the independence of law enforcement agencies, so the indicator score remains unchanged.

Independence (Practice)

2015 score: 25 (2011 Score: 50)

To what extent are law enforcement agencies independent in practice?

The 2011 NIS report noted that, while the law enforcement agencies were among Georgia's most powerful institutions, they suffered at times from the ruling party's influence and did not always act according to the law when the political leadership's interests were at stake. There had been credible allegations of police involvement in the intimidation of opposition candidates during election campaigns.

The evidence since 2011 has been mixed. The situation has improved, in some areas, since the change of power in 2012. Specifically, instances of police involvement in electoral processes, including in intimidation and politically motivated detentions of opposition activists decreased

²⁴⁹ The Law on Prosecutor's Office, adopted on 21 October 2008, Article 2 (a)

²⁵⁰ The Law on Prosecutor's Office, Article 9 (3)

²⁵¹ OECD ACN, 2013, 39

²⁵² *Ibid.*, 2013, 41-42.

²⁵³ OSCE/ODIHR, *Trial Monitoring Report Georgia*, 35-36

substantially or were absent altogether during the 2013 presidential election²⁵⁴ but did occur again during the 2014 local elections.²⁵⁵

At the same time, the issue of a selective approach to criminal investigations remains relevant. There are suggestions the Prosecutor's Office and the Ministry of Internal Affairs remain politicized and serve the ruling party by demonstrating inconsistent treatment to different cases.²⁵⁶ Both Human Rights Watch²⁵⁷ and the Council of Europe²⁵⁸ have voiced concerns over the allegations concerning selective application of justice and politically motivated prosecutions against former government officials from the opposition United National Movement; the Ombudsman has highlighted a number of violations committed by the law enforcement agencies during the investigations and prosecutions of this type.²⁵⁹ An OSCE/ODIHR monitoring report on high-profile prosecutions and trials in Georgia also highlighted a number of occasions where actions by political officials could have undermined the independence of the Prosecutor's Office.²⁶⁰

In a particularly worrying development, the signs of former Prime Minister Bidzina Ivanishvili's informal influence on government decisions and appointments highlighted in this report's chapter on the executive branch are evident in the law enforcement agencies as well. Both the current Internal Affairs Minister and the head of the Special Service for State Protection have previously served as heads of Ivanishvili's personal guard.²⁶¹ Moreover, both the head and the deputy head of the State Security Agency were previously employed by one of Ivanishvili's private companies.²⁶²

Overall, while the problems highlighted in the 2011 largely remain unresolved, a new problem of informal outside influence on the law enforcement agencies has also appeared, so the indicator score has decreased from 50 in 2011 to 25 in 2015.

Transparency (Law)

2015 score: 50 (2011 Score: 50)

To what extent are there provisions in place to ensure that the public can access the relevant information on law enforcement agency activities?

According to the 2011 NIS report, while the provisions of the General Administrative Code regarding

²⁵⁴ TI Georgia, *Misuse of Administrative Resources for Electoral Purposes: 2013 Presidential Elections*, December 2013, 3

²⁵⁵ International Society for Fair Elections and Democracy (ISFED), *Monitoring of 2014 Local Self-Government Elections: Final Report*, 2014, 11

²⁵⁶ Khatiashvili, op cit

²⁵⁷ <http://www.hrw.org/world-report/2014/country-chapters/georgia?page=2> (accessed on 15 March 2015)

²⁵⁸ <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=21123&lang=EN> (accessed on 15 March 2015)

²⁵⁹ <http://ombudsman.ge/uploads/other/1/1934.pdf> (accessed on 15 March 2015)

²⁶⁰ OSCE/ODIHR, *Trial Monitoring Report Georgia*, 7

²⁶¹ <http://www.tabula.ge/ge/story/91940-premierma-shs-ministris-postze-vaxtang-gomelauri-tsaradgina;>
[http://www.netgazeti.ge/GE/105/News/39328/;](http://www.netgazeti.ge/GE/105/News/39328/) (accessed on 15 March 2015)

²⁶² <http://transparency.ge/blog/ivanishvilis-kompaniebi-tanamdebobis-pirebis-samchedlo> (accessed on 23 April 2015)

the access to information did apply to the law enforcement agencies, there was ambiguity as to which parts of law enforcement work were secret or public. The Law on Police contained some limited provisions of transparency but they lacked detail. The provision in the Criminal Procedure Code which had guaranteed victims' access to case materials was removed in 2010.

The legal framework covering the transparency of law enforcement agencies has improved since 2011. Specifically, in August 2013, the government issued a Decree requiring executive branch agencies to proactively publish information.²⁶³ The Prosecutor's Office and the Ministry of Internal Affairs are therefore required to proactively publish the same types of information that are listed in this report's chapter on the executive branch's transparency. Additionally, under the legal amendments of July 2014, the victims' right to have access to case materials has been reinstated, including their right to file an appeal in case the Prosecutor's Office refuses to grant them this access.²⁶⁴

On the negative side, the provisions in the Law on Police remain too limited and general and the Law on Prosecutor's Office contains no such provisions. The list of the types of information to be published proactively by the executive branch agencies needs to be expanded, according to the OECD ACN.²⁶⁵ Moreover, the recent amendments to Law on State Secrets have resulted in a deterioration of the legal provisions on what types of information can be classified, how access to classified information can be gained, and how a decision to classify a piece of information can be challenged, while providing the law enforcement agencies with greater discretion in classifying information.²⁶⁶

On the whole, there have been both positive and negative changes in the legal framework since 2011 and the indicator score remains unchanged.

Transparency (Practice)

2015 score: 25 (2011 Score: 25)

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?

The 2011 NIS report concluded that the law enforcement agencies did not proactively release information about their activities and responded poorly to the requests for public information.

The law enforcement agencies' general responsiveness to FOI requests has not improved in practice since 2011. The MIA showed the worst result in terms of responding to FOI requests — with deterioration in performance compared to the previous years — according to the latest report of 2014 published by the Institute for Development of Freedom of Information (IDFI). Specifically, of 26

²⁶³ <http://ogpgeoblog.files.wordpress.com/2013/09/e18393e18390e18393e18392e18394e1839ce18398e1839ae18394e18391e18390-219.pdf> (accessed on 15 March 2015)

²⁶⁴ The Code of Criminal Procedure, adopted on 9 October 2009, Article 57

²⁶⁵ OECD ACN, 2013, 79

²⁶⁶ <http://transparency.ge/en/blog/new-law-state-secrets-threatening-unjustified-restriction-information> (accessed on 15 March 2015)

FOI requests submitted to the MIA by the IDFI between 1 October 2013 and 1 March 2014, the MIA responded comprehensively to 8 requests only but beyond the required 10 working days required by law. 16 requests went unanswered and MIA refused to provide information in two cases.²⁶⁷ In addition, while proactively publishing on its website a significant portion of information under the aforementioned Government Decree on *Electronic Request and Proactive Publication of Public Information*, the MIA has failed to provide the following information: vacancies and employment statistics; annual procurement plan; advertising expenditures; bonuses, allowances and business trip expenditures; and allocations from budgetary funds.²⁶⁸ At the same time, the MIA does not publish comprehensive statistics on criminal offences while the data that they publish does not seem to be accurate.²⁶⁹

While no such statistics are available on the Prosecutor's Office, the system remains closed and there are frequent cases when FOI requests submitted to this agency, especially on sensitive cases, are left unanswered.²⁷⁰ This has also to do with the fact that operative-investigative activities of law enforcement agencies are generally exempted from the FOI regulations. These agencies tend to expand this exemption on the information that should fall within the public domain.²⁷¹ Another deterioration in transparency of law enforcement agencies occurred when the current Chief Prosecutor who was appointed in January 2014 ceased to hold monthly briefings for CSOs, a practice introduced by one of his predecessors and commanding a great deal of support from civil society.²⁷²

Since the serious problems in terms of the transparency of law enforcement agencies highlighted in 2011 NIS report have not been addressed, the indicator score remains unchanged.

Accountability (Law)

2015 score: 75 (2011 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?

The 2011 NIS report found that the legal framework contained extensive provisions concerning the accountability of law enforcement agencies. The Internal Affairs Ministry and the Prosecutor's Office were subject to parliamentary and judicial control, as well as audits by the State Audit Office. Police officers and prosecutors could face both internal and external investigation, as well as disciplinary sanctions and criminal penalties, for misconduct and offences. On the negative side, unlike other government ministries, the law enforcement agencies were not required to set up internal audit units until 2013.

²⁶⁷ Institute of Development of Freedom of Information, *Availability of Public Information in Central Public Agencies*, March 2014, 37-40

²⁶⁸ Institute of Development of Freedom of Information, *The Practice of proactive publication and electronic request of information in public agencies*, March 2014, 14

²⁶⁹ <http://feradi.info/en/visualizations/transparency-is-more-than-just-a-glass-building> (accessed on 15 March 2015)

²⁷⁰ Khatiashvili, op cit

²⁷¹ Gvaramadze, op cit

²⁷² *Ibid.*

The legislative postponement of the establishment of internal audit units in the law enforcement agencies mentioned above has now expired and these units have been established. However, on the negative side, the adoption of a number of legislative amendments that would have improved the accountability of law enforcement agencies, such as new rules for the questioning of witnesses²⁷³ and stricter regulations for the use of secret surveillance,²⁷⁴ have been postponed.

Because of mixed evidence since 2011, the indicator score remains unchanged.

Accountability (Practice)

2015 score: 25 (2011 Score: 25)

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

According to the 2011 NIS report, the accountability of law enforcement agencies was not ensured sufficiently in practice, especially in the cases involving high-level officials or the political leadership's interests. The Ministry of Internal Affairs was described as a powerful body lacking external oversight, while the accountability of the Prosecutor's Office was undermined, among other things, by its strong influence over the judiciary. There were a number of notable cases where law enforcement officers were not sanctioned for their offences, including harassment of opposition activists.

This problem with sanctioning law enforcement officers for their violations also persists today. According to the Ombudsman, investigating possible crimes committed by law enforcement officers remains problematic.²⁷⁵ Crimes, including beating and violent treatment of defendants, are often qualified by General Inspections as mere breaches of disciplinary proceedings or disregarded altogether.²⁷⁶ This was evident in the dispute between the MIA and the Georgian Young Lawyers' Association (GYLA) over the case of a senior police officer insulting and attacking the GYLA's staff member while also damaging a video file serving as important evidence in the case.²⁷⁷ In another prominent case, former Deputy Minister of Internal Affairs, Gela Khvedelidze, was sacked and arrested following charges that he published a sex video of a journalist but ultimately only received a conditional one-year sentence.²⁷⁸ This decision was criticized by civil society organizations as an example of selective justice, especially since an ordinary citizen had been sentenced to 18 months in jail for hacking into an email account.²⁷⁹

Overall, the situation has not changed significantly since 2011, so the indicator score remains unchanged.

²⁷³ <http://civil.ge/eng/article.php?id=26827> (accessed on 15 March 2015)

²⁷⁴ <http://transparency.ge/en/post/general-announcement/decision-direct-access-mobile-operators-data-must-not-be-postponed> (accessed on 15 March 2015)

²⁷⁵ <http://ombudsman.ge/uploads/other/1/1934.pdf> (accessed on 15 March 2015)

²⁷⁶ Gvaramadze, op cit

²⁷⁷ <http://www.civil.ge/geo/article.php?id=26735> (accessed on 15 March 2015)

²⁷⁸ <http://www.tabula.ge/ge/story/83228-gela-xvedelidzes-sasamartlom-erttsliani-pirobiti-sasjeli-sheufarda> (accessed on 15 March 2015)

²⁷⁹ <https://gyla.ge/geo/blog?info=2126> (accessed on 15 March 2015)

Integrity (Law)

2015 score: 75 (2011 score: 100)

To what extent is the integrity of law enforcement agencies ensured by law?

The 2011 NIS report noted that Georgia had a strong legal framework for the integrity of law enforcement agencies. The Prosecutor's Office had a dedicated Code of Ethics, while the Law on Police established similar rules for police officers. Law enforcement officials were also required to follow the provisions of the Law on Conflict of Interest and Corruption in Public Service concerning conflict of interest, gifts, and asset disclosure.

In addition to existing regulations, in 2013, the MIA developed a binding Code of Ethics for police officers, the violation of which can result in disciplinary proceedings against the offenders.²⁸⁰ As for the Prosecutor's Office, an important change to the law with potentially negative consequences for the integrity of this Office was also made in 2013. Specifically, the Chief Prosecutor was given an exclusive power of prosecuting violations by the institution's own employees depriving the Ministry of Justice of a similar function.²⁸¹ Such a change may lead to the cases of conflict of interests, and put the integrity of the Office at risk.²⁸² At the same time, the law does not define who should investigate offences committed by the chief prosecutor, which is a serious gap.²⁸³

Because of the negative change in the legal framework described above, the indicator score has decreased from 100 in 2011 to 75 in 2015.

Integrity (Practice)

2015 score: 50 (2011 score: 50)

To what extent is the integrity of members of law enforcement agencies ensured in practice?

According to the 2011 NIS report, Georgia had achieved significant progress in promoting integrity of law enforcement agencies and eradicating corruption there, resulting in a highly positive public opinion about the police, although the public continued to view the Prosecutor's Office less positively. The integrity of law enforcement agencies was also affected negatively by the fact that they operated according to the political leadership's partisan interests in some cases.

The public level of trust in the police remains relatively high, albeit with a slight decrease in percentage compared to the period preceding the 2012 parliamentary elections. Specifically, as of April 2014, 51 per cent of Georgian citizens rate the performance of the police positively while this figure

²⁸⁰ <http://police.ge/files/pdf/policiis%20kodeqsi/Georgian%20Police%20Code%20of%20Ethics%20Georgian%20final.pdf> (accessed on 15 March 2015)

²⁸¹ The Law on Prosecutor's Office, Article 38 (3)

²⁸² Khatiashvili, op cit

²⁸³ Gvaramadze, op cit

stood at 58 per cent in September 2012, according to public opinion surveys conducted by National Democratic Institute (NDI).²⁸⁴²⁸⁵

As for the Prosecutor's Office, a positive development in building the trust in this Office occurred in December 2013 when the then-Chief Prosecutor Otar Partskhaladze resigned following outcry from civil society and the media over his controversial background.²⁸⁶ Specifically, it was alleged that Partskhaladze was charged with a robbery by the German court in 2001 and had also received his higher education degree in a suspiciously short period of time.²⁸⁷

On the negative side, there are a number of high profile criminal cases raising concerns about politically motivated charges against former senior officials and supporters of the UNM government (e.g., cases of Tengiz Gunava, Tsezar Chocheli, and Giorgi Oniani).²⁸⁸²⁸⁹ Also, as was the case in 2011, there are still no effective mechanisms for the enforcement of integrity rules (established by the Law on Conflict of Interest and Corruption in Public Service) in practice.²⁹⁰

Overall, the situation is similar to what it was in 2011, so the indicator score remains unchanged.

Role: Corruption Prosecution (Law and Practice)

2015 score: 75 (2011 score: 75)

To what extent do law enforcement agencies detect and investigate corruption cases in the country?

The 2011 NIS report noted that the law enforcement agencies had been a leading force in Georgia's fight against corruption and had been successful in eliminating bribery at the lower levels of public administration. However, their lack of independence undermined their ability to deal with corruption at the higher levels of government.

The current situation is similar to that described in the 2011 NIS report. Bribery levels in public administration remain low,²⁹¹ pointing to sustained success in combatting this type of corruption. Additionally, following the 2012 parliamentary elections and the subsequent change of government, the law enforcement agencies launched multiple investigations and brought corruption-related charges against a number of former high-ranking officials, including former President Mikheil Saakashvili. However, these prosecutions have raised concerns over politically motivated and selective application of justice.²⁹² While these investigations targeted former government members,

²⁸⁴ <https://www.ndi.org/files/Georgia-April14-Survey-Political-English.pdf> (accessed on 15 March 2015)

²⁸⁵ <https://www.ndi.org/files/Georgia-Aug-2012-Survey.pdf> (accessed on 15 March 2015)

²⁸⁶ <http://www.tabula.ge/ge/story/78727-otar-farcxaladze-tanamdebobidan-gadadga> (accessed on 15 March 2015)

²⁸⁷ <http://transparency.ge/en/post/general-announcement/chief-prosecutor-s-criminal-records-need-be-officially-verified> (accessed on 15 March 2015)

²⁸⁸ Gvaramadze, op cit

²⁸⁹ Khatiashvili, op cit

²⁹⁰ A more detailed discussion of this problem is provided in the chapter on Public Administration.

²⁹¹ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 15 March 2015)

²⁹² <https://freedomhouse.org/report/nations-transit/2014/georgia#.VGCqgleXRUQ> (accessed on 15 March 2015); <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21123&lang=en> (accessed on 15 March 2015); <http://www.dw.de/eu-warns-georgia-against-selective-justice-as-saakashvili-bows-out/a-17193429> (accessed on 15 March 2015)

a number of incumbent officials from the Defense Ministry were arrested on corruption-related charges in November 2014. However, in their preliminary assessment, a group of Georgia's leading CSOs questioned the validity of the charges and highlighted a number of violations committed by the prosecution.²⁹³ The fears were voiced the arrests were part of a political struggle between the prime minister and the defence minister (rather than a genuine anti-corruption effort).²⁹⁴

Overall, given the fact that (as described in the relevant section above) the law enforcement agencies remain insufficiently independent from the political leadership, there are questions and concerns regarding their ability to combat corruption in high echelons of power. Additionally, some problems in the law and in practice negatively affect the ability of the Prosecutor's Office to investigate corruption-related crime. For example, according to the OECD ACN, the fact that, under the current system, investigators working on cases of corruption can be supervised by prosecutors from the same office creates a conflict of interest and the problem can be "exacerbated by the strict hierarchical nature of the prosecution service."²⁹⁵

On the whole, there have been few changes since 2011, so the indicator score remains the same.

²⁹³ <http://transparency.ge/en/node/4762> (accessed on 15 March 2015)

²⁹⁴ See, for example: <http://www.civil.ge/eng/article.php?id=27781> (accessed on 15 March 2015)

²⁹⁵ OECD ACN, 2013, 41.

Electoral Management Body

Summary

Georgia's electoral management body has improved significantly in recent years. The electoral administration is more independent than in 2011 and operates in a transparent manner. Progress has also been made in terms of the electoral administration's accountability and integrity. It managed the recent parliamentary, presidential and local elections well. At the same time, the electoral administration continues to face problems in the area of human resources, particularly in terms of the qualifications of lower-level commission members.

Electoral Management Body Overall Pillar Score: 71/100 (2011: 47/100)			
Dimension	Indicator	Law	Practice
Capacity: 58/100 (2011: 50/100)	Resources		50 (2011: 50)
	Independence	75 (2011: 75)	50 (2011: 25)
Governance: 79/100 (2011: 54/100)	Transparency	100 (2011: 75)	100 (2011: 75)
	Accountability	50 (2011: 50)	50 (2011: 25)
	Integrity	100 (2011: 50)	75 (2011: 50)
Role: 75/100 (2011: 38/100)	Election administration	75 (2011: 50)	
Law and practice average		80 (2011: 54)	67 (2011: 43)

Structure and Organisation

Georgia has a three-tier electoral administration made up of the Central Electoral Commission (CEC), 73 District Electoral Commissions (DECs), and over 3,600 Precinct Electoral Commissions (PECs). There are 13 members in each of these commissions, with seven members appointed by the country's top political parties and the remaining members appointed either by president and Parliament (in CEC's case), the CEC (in the case of DECs), or the DECs (in the case of PECs).

Resources (Practice)

2015 score: 50 (2011 Score: 50)

To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?

The 2011 NIS report noted that the EMB received sufficient funding and equipment and had invested resources in improving the skills of electoral officials at all levels through training. Still, the OSCE monitoring missions for the 2008 presidential and parliamentary elections and the 2010 local elections found that members of lower-level electoral commissions often lacked the knowledge of

the relevant procedures, especially those concerning vote count, pointing to the need for further training.

The problem of qualification of the members of lower-level electoral commission remains. The OSCE/ODIHR Election Observation Missions for the 2012 parliamentary and the 2013 presidential elections generally assessed the electoral administration's performance (at the central as well as the district and the precinct levels) positively on both occasions and commended the CEC for its efforts in terms of training electoral officers. However, remaining knowledge gaps were still highlighted, especially in terms of the ability of the lower-level commissions to manage some of the election-day procedures.²⁹⁶ The International Society for Fair Elections and Democracy (ISFED - a leading Georgian electoral watchdog) also highlighted the issue in its report on the 2014 local elections, recommending that the electoral administration should prioritize professionalism during the recruitment of commission members and that only certified professionals should be appointed to commissions at all levels of administration.²⁹⁷ The lack of experience of the DEC and PECs was highlighted in the monitoring report by the Election Observation Mission of the European Parliament for the 2013 Presidential Elections²⁹⁸ and the CEC chairwoman also acknowledged the problem in her communication with TI Georgia. Additionally, frequent change of the commission members, which alters the composition of the lower-level commissions on a regular basis, creates the need for additional trainings.²⁹⁹

Overall, the situation is very similar to the one described in the 2011 NIS report, so the indicator score remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent is the electoral management body independent by law?

The 2011 NIS report found that Georgia's legal framework included strong rules designed to ensure independence of the country's electoral officials, including the provisions guaranteeing the political opposition's participation in their appointment and protecting them from arbitrary removal. On the negative side, Parliament's power to dismiss members of the Central Electoral Commission (CEC) on a discretionary basis and the power of political parties to recall the commission members they had appointed were viewed as potential threats to the electoral administration's independence.

The legislation governing the dismissal of the commission members by the political parties remains the same.³⁰⁰ Similarly, Parliament has retained the right to dismiss the members.³⁰¹

Since the situation is the same as in 2011, the indicator score remains unchanged.

²⁹⁶ OSCE/ODIHR, *Georgia: Parliamentary Elections 2012*, 8; OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 6-7.

²⁹⁷ ISFED, 2014, 60.

²⁹⁸ European Parliament, *Election Observation Delegation to the Presidential Elections in Georgia*, 27 October 2013, 4

²⁹⁹ TI Georgia's Correspondence with Tamar Zhvania, the Chairperson of the Central Election Commission, 27 August 2014

³⁰⁰ The Electoral Code, adopted on 27 December 2011, Article 13 (6)

³⁰¹ The Electoral Code, Article 29 (1)

Independence (Practice)

2015 score: 50 (2011 Score: 25)

To what extent does the electoral management body function independently practice?

According to the 2011 NIS report, Georgia's electoral administration was not independent in practice. The OSCE/ODIHR election observation missions had noted a pro-government bias in the operation of the CEC during the 2008 presidential and parliamentary elections and highlighted cases where precinct electoral commission (PEC) members had been intimidated and forced to resign. On the positive side, the electoral administration had appeared more independent during the 2010 local elections.

The OSCE/ODIHR Election Observation Missions for the 2012 parliamentary and the 2013 presidential elections have not noted any pro-government bias in the CEC's operation, which indicates that the electoral administration body has made some progress in this area. Cases of intimidation have become less frequent but still occur on occasion.³⁰² ISFED identified a number of such cases during the 2013 presidential and the 2014 local elections.³⁰³³⁰⁴³⁰⁵ I

The composition of electoral commissions is another matter of concern in terms of the electoral administration's independence. The report on the 2013 Presidential Elections by the National Democratic Institute noted the overrepresentation of the Georgian Dream Coalition in the commissions, which posed a threat to unbiased performance of PECs and DECs.³⁰⁶ The OSCE/ODIHR Election Observation Missions also highlighted the dominance of the ruling United National Movement in the electoral commissions for the 2012 parliamentary elections and of the ruling Georgian Dream coalition in the electoral commissions for the 2013 presidential election.³⁰⁷ This type of dominance can potentially create the perception of bias and undermine public trust in elections.

While important problems remain, the electoral administration's is on the whole more independent than it was during the period of time covered in the last NIS report, so the indicator score has increased from 25 in 2011 to 50 in 2015.

Transparency (Law)

2015 score: 100 (2011 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 EMB?

³⁰² TI Georgia's interview with Lela Taliuri, project coordinator at the Georgian Young Lawyers' Association, 26 August 2014.

³⁰³ ISFED, *Presidential Elections: Fifth Interim Report of Pre-Election Monitoring 27 October, 2013*, 3

³⁰⁴ *ibid.*, 3

³⁰⁵ ISFED, 2014, 27

³⁰⁶ National Democratic Institute, *Georgia: Presidential Elections 2013*, Statement of the NDI Election Observer Delegation, 28 October 2013, 5

³⁰⁷ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*, 8; OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 6.

The 2011 NIS report concluded that the legal framework contained extensive provisions concerning the transparency of the EMB. The commissions were required to publish election-related documents and to promptly respond to citizens' election-related queries, commission meetings were open to the general public, the stakeholders, and the media, while the media were also guaranteed access to polling stations on the election day. Representatives of election contestants were entitled to attend and monitor all stages of the electoral process. On the negative side, the legal provision requiring domestic observers to identify the districts and precincts where they would monitor the elections was deemed as unreasonably restrictive, while the provisions concerning the right of observers to monitor vote count at PECs and consolidation of election results at the district electoral commissions (DECs) required clarification.

The legal framework has improved since 2011. Changes in the Electoral Code allow observers to enter and monitor any districts or precincts without restriction.³⁰⁸ Additionally, a Decree on the procedural rules for the Election Day issued by the CEC in 2012 was further amended in 2013, and defines the rights of the observers to make photo and video recording on the Election Day.³⁰⁹

Because of these improvements, the indicator score has increased from 75 in 2011 to 100 in 2015.

Transparency (Practice)

2015 score: 100 (2011 Score: 75)

To what extent are reports and decisions of the electoral management body made public in practice?

The 2011 NIS report noted that observers' findings regarding the transparency of the EMB during the 2008 and 2010 elections had been mostly positive. The CEC had operated in a transparent manner and its sessions had been open to the observers, the stakeholders, and the media. The CEC had also maintained an up-to-date and informative website which carried different types of election-related information and where election results had promptly been posted. Representatives of election contestants had been allowed to attend vote count at the PECs. On the negative side, the tabulation process in some DECs had not been sufficiently transparent and some PECs had also failed to post their protocols for public scrutiny.

Observers no longer experience a problem entering various election districts and monitoring vote count.³¹⁰ The situation has also improved in terms of the posting of protocols: According to the OSCE/ODIHR assessment of the 2013 elections, preliminary results were announced and posted on the website in a timely manner. The mission's observers also assessed the transparency of the electoral process positively 97 per cent of the polling stations.³¹¹ The report on the Presidential Elections of 2013 by the Election Observation Mission of the European Parliament similarly commended CEC for announcing results of the Presidential Election and posting them on the website according to district and precinct, as well as for promoting transparency prior to the election date by actively engaging with the stakeholders in the discussions on election-related issues, and by opening

³⁰⁸ The Electoral Code, Article 40, Paragraph 8

³⁰⁹ Central Election Commission, Decree N45/2013

³¹⁰ TI Georgia's Correspondence with Nino Lomjaria, Executive Director of ISFED, 24 September 2014

³¹¹ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 20-21.

up the meetings to NGOs and the media. Timely publication of various decrees and decisions on complaints was also noted in the report.³¹²

Transparency of the electoral administration has therefore clearly improved since 2011, so the indicator score has increased from 75 in 2011 to 100 in 2015.

Accountability (Law)

2015 score: 50 (2011 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 2011 NIS report noted that political and financial accountability of the EMB was ensured sufficiently in the law: The CEC was required to report to the legislature within 60 days of the elections and to file a financial report with the Ministry of Finance, while the country's supreme audit institution had the power to review the CEC's spending. On the negative side, the procedures for challenging the EMB's decisions in court were overly complex and the relevant time frames were too short, while individuals could only challenge the EMB in court over disputes concerning voter lists.

There was an improvement in terms of the time frames for filing complaints, which increased to three days for the 2012 and the 2013 elections, although it was reduced again to two days in 2014.³¹³ The legal right of voters in terms of the filing of complaints are still restricted to their inclusion in voter lists. The OSCE/ODIHR has recommended that all election contestants be allowed to file complaints over all election-related issues, while also noting that "citizens should be permitted to file complaints in all cases of possible violation of their suffrage rights, including against decisions and actions of election commissions."³¹⁴ On the positive side, the OSCE/ODIHR 2012 report on Presidential Elections assessed new Electoral Code positively for establishing efficient dispute resolution procedures and noted that the complaint submission was simplified due to the adoption of a standardized form of complaints.³¹⁵

Still, the situation is largely the same as in 2011, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 50 (2011 Score: 25)

To what extent does the EMB have to report and be answerable for its actions in practice?

The 2011 NIS report concluded that the electoral administration's accountability was not ensured sufficiently in practice. Higher-level commissions had failed to ensure the accountability of the

³¹² European Parliament, 2013, 11

³¹³ The Electoral Code, Article 77

³¹⁴ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 17.

³¹⁵ OSCE/ODIHR, *Georgia: Parliamentary Elections 2012*, p. 21

lower-level commissions, while courts had proven unable to hold the CEC accountable for its actions. The OSCE/ODIHR had noted the lack of political will both in the electoral commissions and in courts to deal with the complaints and appeals they had received in a serious and impartial manner. Courts commonly failed to examine factual circumstances of alleged violations committed by electoral commissions, while the CEC routinely refused to consider appeals altogether.

The evidence since 2011 is mixed. The OSCE/ODIHR report on the 2012 parliamentary elections noted that the complaints and appeal process was generally characterized by “efficiency, well-reasoned decisions and a high degree of transparency”, although there was less confidence in the process at the DEC level compared with the CEC.³¹⁶ During the 2013 presidential election, according to the OSCE/ODIHR, the CEC considered appeals “in open and interactive sessions where complainants had the opportunity to present their facts and arguments.” At the same time, the OSCE/ODIHR was critical of the parallel system of considering appeals in the Inter-Agency Commission for Free and Fair Elections, noting that this practice “discouraged the filing of complaints with election commissions and courts that had the authority to impose sanctions.”³¹⁷

ISFED’s report on 2014 Local Elections noted that, in the post-election period, 238 complaints were filed with DEC and PECs, mostly concerning violations during vote count. The process of the review of complaints was assessed as transparent, yet lacking appropriate examination of election documents, and proper substantiation.³¹⁸ The International Republican Institute assessed handling of the complaints in post-election period of the Local Elections in 2014 positively, stating that performance has improved since 2012.³¹⁹

While problems remain in terms of the complaints and appeals process, the situation has improved compared with 2011, so the indicator score has increased from 25 in 2011 to 50 in 2015.

Integrity (Law)

2015 score: 100 (2011 score: 50)

To what extent are there mechanisms in place to ensure the integrity of the electoral management body?

The 2011 NIS report noted that Georgia did not have a formal Code of Conduct for electoral officials. However, having the status of civil servants, they were required to abide by the provisions of the Law on Public Service which contained a number of integrity rules, including those designed to prevent conflict of interest and corruption.

A binding Code of Conduct was adopted in 2012, which must be signed by every member of commission.³²⁰ Violating the code might result in disciplinary responsibility. ISFED welcomed the adoption of the Code of Ethics as a positive step towards promoting rule of law, impartiality, and

³¹⁶ OSCE/ODIHR, *Georgia: Parliamentary Elections 2012*, 21.

³¹⁷ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 18.

³¹⁸ ISFED, 2014, 10

³¹⁹ International Republican Institute, *Georgia Local Elections: June 15 and July 12, 2014*, 2014, 11

³²⁰ Decree of the Central Election Commission on the Adoption of the Code of Ethics, 9 March 2012.

transparency, as well as high professional standards in the electoral administration.³²¹ The Code endorses the principles of independence, non-partisanship, and transparency and establishes rules on conflict of interest, gifts, and hospitality.³²²

Because of this positive change, the indicator score has increased from 50 in 2011 to 100 in 2015.

Integrity (Practice)

2015 score: 75 (2011 score: 50)

To what extent is the integrity of the electoral management body ensured in practice?

The 2011 NIS report concluded that the existing integrity rules were enforced at the CEC level where there had been cases of sanctions applied for breaches of these rules. However, there was little evidence of similar enforcement in the lower-level commissions, especially the PECs which were exempt from the regulations described the section on law above.

In a positive development, members of all levels of the electoral administration (a total of over 48,000 officers) signed the Code of Ethics in May 2014.³²³ The Code of Ethics was applied on several occasions, including putting a disciplinary responsibility on the head of the Precinct Election Commission in Didube during the local self-government elections. The matter concerned registration of a family member as a voter as the head of the PEC violated regulations by delaying submission of a statement. The DEC issued a warning for disciplinary violation.³²⁴

Beyond this example, the lack of evidence makes it difficult to assess the enforcement of the Code of Ethics in practice. According to an expert interviewee, despite the cases where some commission members were sanctioned, overall, violations have not been reviewed proactively by PECs and DEC.³²⁵ During the 2014 Local Self-government Elections total of 7 individuals were held accountable for violating the Code of Ethics, and the measures taken were limited to issuing warnings.³²⁶ On the other hand, the OSCE/ODIHR's conclusion that the administration worked "in a professional, transparent, and timely manner and enjoyed a high level of stakeholder confidence" during the last national election³²⁷ might be considered an indication of a lack of serious problems in terms of the administration's integrity.

On the whole, the situation has improved since 2011, so the indicator score has increased from 50 in 2011 to 75 in 2015.

³²¹ ISFED, 2014, 16

³²² Decree of the Central Election Commission on the Adoption of the Code of Ethics

³²³ ISFED, 2014, 16

³²⁴ The Central Election Commission, *Report on the Complaints submitted to the Central Election Commission: June-July 2014*, 2014, 74

³²⁵ Taliuri, op. cit.

³²⁶ TI Georgia's request for public information from the Central Election Commission, 28 November 2014

³²⁷ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 2.

Role: Campaign Regulation (Law and Practice)

2015 score: N/A (2011 score: 25)

Does the electoral management body effectively regulate candidate and political party finance?

According to the 2011 NIS report, the legal framework provided the EMB with a number of mechanisms for the regulation of campaign finance. For example, election contestants were required to report to the CEC on their donations during the campaign and to submit general financial reports after the elections. The printed and electronic media outlets running campaign advertising had a similar reporting obligation vis-a-vis the CEC. However, the CEC Financial Monitoring Group did not have sufficient tools and resources to properly examine the financial reports on political parties and the CEC had also failed to address the irregularities in the media.

The legal framework has changed since 2011 and campaign finance regulation is no longer the responsibility of the electoral administration. The State Audit Office has taken over this role instead.

No score is therefore assigned for this indicator in 2015.

Role: Election Administration (Law and Practice)

2015 score: 75 (2011 score: 50)

Does the EMB effectively oversee and administer free and fair elections and ensure the integrity of the electoral process?

The 2011 NIS report concluded that the EMB had been successful in administering the pre-election activities and the voting procedures during the 2008 and 2010 elections but had demonstrated shortcomings in terms of vote count/tabulation and the handling of post-election complaints and appeals. The CEC had conducted a lot of preparatory work for the elections, including improvements to the voter lists, but had failed to properly address and sanction election-related violations, while significant procedural errors had been observed during vote count and tabulation.

There has been a general improvement in the quality of electoral administration, although vote count and tabulation are at times still problematic. The OSCE/ODIHR noted in its report on 2012 Parliamentary Elections that the electoral administration “managed the preparations for the elections in a professional manner” and that the “International observers assessed all stages of the election day process positively with election officials generally adhering to procedures” although the assessment of voting and tabulation had, once again, been “less positive.”³²⁸ Specifically, problems identified during the vote count included procedural violations before the opening of ballot boxes, failure to count the signatures, annulment of ballots, as well as violations during completion and display of protocols.³²⁹ Overall, vote count was assessed negatively in 25 out of 159 polling stations monitored by the OSCE/ODIHR observers.³³⁰ Tabulation was described as “largely transparent”, although PEC protocol figures did not reconcile in 11 of 97 cases.³³¹ In the 2014 Local Self-

³²⁸ OSCE/ODIHR, *Georgia: Parliamentary Elections 2012*, 2, 23-24.

³²⁹ *Ibid.*, 25

³³⁰ *Ibid.*, 25.

³³¹ *Ibid.*, 27

government Elections total of 44 complaints were filed regarding the violations during vote count, out of which 13 were granted.³³²

The 2013 presidential election was described by the OSCE/ODIHR as “efficiently administered” and the voting process was assessed as “good” or “very good” by the OSCE/ODIHR observers in 97 per cent of the cases.³³³ Counting remained relatively more problematic and some PECs had problems completing the results protocols, although the counting process was still assessed positively by the observers in 120 of 134 cases.³³⁴ Tabulation was assessed as “good” or “very good” in 78 of 83 cases, although there were still “limited cases of observed irregularities.”³³⁵

The International Society for Fair Elections and Democracy, a leading domestic electoral watchdog, noted that the 2014 local elections showed a decrease in the number of procedural violations and, while some irregularities still occurred, their number was small and they did not affect election results.³³⁶

While some problems remain (most notably in terms of vote count), the findings of international and domestic observers indicate an overall improvement in election administration, so the indicator score has increased from 50 in 2011 to 75 in 2015.

³³² TI Georgia's request for public information from the Central Election Commission, 28 November 2014

³³³ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 2, 20.

³³⁴ *Ibid.*, 21.

³³⁵ *Ibid.*, 22.

³³⁶ ISFED, 2014, 9

Public Defender

Summary

The Public Defender's Office remains independent in its activities and operates in a transparent manner but continues to face challenges because of insufficient resources despite improvements in this area. The office receives large numbers of complaints from citizens, conducts investigations, and produces recommendations, although the law enforcement agencies do not always follow up on these consistently.

Public Defender Overall Pillar Score: 65/100 (2011: 63)			
Dimension	Indicator	Law	Practice
Capacity: 75/100 (2011: 67)	Resources		75 (2011: 50)
	Independence	75 (2011: 75)	75 (2011: 75)
Governance: 71/100 (2011: 75)	Transparency	75 (2011: 75)	75 (2011: 75)
	Accountability	75 (2011: 75)	75 (2011: 75)
	Integrity	75 (2011: 75)	50 (2011: N/A)
Role: 50/100 (2011: 50)	Investigation	50 (2011: 50)	
	Promoting good practice	50 (2011: 50)	
Law and practice average		67 (2011: 67)	64 (2011: 63)

Structure and Organisation

Under the Constitution, the Public Defender is elected by parliament on the basis of nominations from MPs and is authorised to investigate violations of human rights and inform the relevant bodies/officials about the findings. The powers and responsibilities of the Public Defender are detailed in the Organic Law on the Public Defender. 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. The Public Defender's Office is established in order to facilitate the Public Defender's work. Since 2014, the Public Defender is also responsible for overseeing elimination of all forms of discrimination in the public and the private sectors.

Resources (Practice)

2015 score: 75 (2011 Score: 50)

To what extent does the public defender have adequate resources to achieve its goals in practice?

The 2011 NIS report noted that, while the Public Defender's Office received its funding without delays and the capacity of its staff had improved as a result of the growth of salaries, the size of funding was insufficient and it had to be supplemented with foreign aid in order for the office to

function properly. The size of the staff was also insufficient for dealing with the office's heavy caseload.

Since 2011, the budget of the Public Defender's office has increased by approximately 5 per cent a year³³⁷ and there was a 68-per cent growth in the budget for 2015 because of the office's additional responsibility to oversee anti-discrimination activities and the establishment of a number of new departments inside the office (including the equality department, the department for the protection of human rights in the defense sphere, and the department for people with disabilities). The number of office's employees has increased from 71 in 2012 to 123 in 2015.³³⁸

However, according to expert interviewees, the funding and the human resources are still deemed inadequate.³³⁹³⁴⁰ The Public Defender's Office continues to rely on donor assistance including technical support and capacity building programs.³⁴¹

Still the significant growth of the funding and the number of employees merits an increase of the indicator score from 50 in 2011 to 75 in 2015.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent is the public defender independent by law?

According to the 2011 NIS report, the legal provisions designed to ensure the Public Defender's independence were generally strong. The Public Defender was protected by law from pressure and arbitrary dismissal and enjoyed immunity from criminal prosecution. On the negative side, the office was not protected sufficiently from arbitrary reduction of its funding as the legal provision which prohibited reduction of the office's funding compared to the previous year without the Public Defender's consent only applied to the part of the institution's budget designated for salaries.

The legal framework has remained unchanged since 2011 as far as the Public Defender's independence is concerned.

Since the legal framework is the same as in 2011, the indicator score remains unchanged.

Independence (Practice)

2015 score: 75 (2011 Score: 75)

To what extent is the public defender independent in practice?

³³⁷ TI Georgia's Interview with Ucha Nanuashvili, Public Defender, 30 May 2014

³³⁸ TI Georgia's correspondence with Natia Katsitadze, Head of Justice Department at the Office of the Public Defender, 26 December 2014.

³³⁹ TI Georgia's Interview with Giorgi Gogia, Senior Researcher for Human Rights Watch, 21 May 2014

³⁴⁰ TI Georgia's Interview with Vakhushti Menabde, Director of Institutional Reform Support Program, 19 May 2014

³⁴¹ Menabde, op cit

The 2011 NIS report concluded that the Public Defender operated without any undue external influence in practice and did not engage in any actions that would undermine the impartiality of the office. On the negative side, some individuals reportedly refrained from filing complaints with the Public Defender because of the fear of retaliation.

In 2013, 11,900 cases were filed to the Public Defender's office, which is a significant increase since 2011 when only 3,405 were filed.³⁴² Such significant increase in the number of appeals could indicate greater public trust in the Public Defender. However, there is also some data pointing to the contrary: According to the Caucasus Barometer survey, the share of the respondents who "trust" or "fully trust" the Ombudsman has fallen from 34 per cent in 2011 to 33 per cent in 2012 to 28 per cent in 2013.³⁴³

The evidence since 2011 is mixed, so the indicator score remains unchanged.

Transparency (Law)

2015 score: 75 (2011 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 public defender?

According to the 2011 NIS report, the law guaranteed public access to essential information concerning the Public Defender's activities (including the findings of investigations and recommendations) and personal assets, although there were no provisions requiring proactive publication of information by the Public Defender and no legal provisions regarding the involvement of the public in the Public Defender's activities (for example, through public consultations or the establishment of public councils and advisory committees).

In September 2013, the Public Defender issued a decree on proactive publication of information of his office, along with a list of information that needs to be published.³⁴⁴ The comprehensive list includes information on the structure and functions of the Ombudsman's Office, legal acts, annual report, strategies and action plans drafted by the Office, vacancies, normative acts, and operational information such as number of staff, mirroring the listing provided in the decree issued by the government.³⁴⁵ On the negative side, the legal framework still does not include provisions on the public's involvement in the institution's work.

The decree on proactive publication is an important step forward but the indicator score remains unchanged because of the gaps in the legal framework concerning the public's participation in the institution's activities.

³⁴² TI Georgia's email correspondence with Natia Katsitadze

³⁴³ <http://caucasusbarometer.org/en/cb2013ge/TRUOMB/> (accessed on 15 March 2015);

<http://caucasusbarometer.org/en/cb2012ge/TRUOMB/> (accessed on 15 March 2015);

<http://caucasusbarometer.org/en/cb2011ge/TRUOMB/> (accessed on 15 March 2015)

³⁴⁴ <http://www.ombudsman.ge/ge/page/1905-gancxadeba-informaciis-tavisuflebis-saertashoriso-dgestan-dakavshirebit> (accessed on 15 March 2015)

³⁴⁵ Decree N201 of the Public Defender of Georgia, 27 September 2013

Transparency (Practice)

2015 score: 75 (2011 Score: 75)

To what extent is there transparency in the activities and decision-making processes of the public defender in practice?

According to the 2011 NIS report, the Public Defender made different types of information about the office's activities available to the public through the official website and the annual reports, including the office's findings and recommendations. On the negative side, the office sometimes failed to respond to requests for public information (FOI requests).

There is a significant improvement in terms of responses to FOI requests on behalf of the Public Defender's office.³⁴⁶ The website has become more useful as well, considering that the Public Defender's office became more proactive in terms of publishing reports on the website on a regular basis.³⁴⁷ Additionally, the office is easily accessible via email and phone.³⁴⁸ Increased transparency of the office has earned the Public Defender an Institute for Development of Freedom of Information prize for transparency.³⁴⁹ The Public Defender selected 40 experts from the civil society to monitor the situation in penitentiary institutions in 2013 and also established a special council for the same purpose in 2014.³⁵⁰ However, several members of this group have voiced concern regarding their lack of access to information about the situation in the penitentiary facilities and consequently about the general effectiveness of the mechanism.³⁵¹

Overall, despite some improvements, the reports concerning the problems in the monitoring of penitentiary institutions mean that the maximum score of 100 cannot be justified, so the indicator score remains the same.

Accountability (Law)

2015 score: 75 (2011 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 2011 NIS report concluded that the legal provisions on the Public Defender's accountability were strong and the Public Defender was required to report to Parliament, while the legal provisions on judicial review and whistleblower protection also applied to the Public Defender's Office. On the negative side, the Public Defender was not required to proactively inform the media about the office's activities. There were also doubts whether the annual parliamentary reporting was sufficient.

³⁴⁶ Menabde, op cit

³⁴⁷ Mshvenieradze, op cit

³⁴⁸ Gogia, op cit

³⁴⁹ Institute for Development of Freedom of Information, *Access to Public Information in Georgia*, Informational Bulletin N5 2012-2013, , 44

³⁵⁰ TI Georgia's correspondence with Natia Katsitadze,

³⁵¹ <http://www.netgazeti.ge/GE/105/law/36320/> (accessed on 15 March 2015)

There have been no changes in the legislation with regards to increasing Public Defender's accountability.

The indicator score therefore remains unchanged.

Accountability (Practice)

2015 score: 75 (2011 Score: 75)

To what extent does the ombudsman have to report and be answerable for its actions in practice?

The 2011 NIS report noted that the Public Defender reported to Parliament annually as required by the law, although the reports did not include statistics on the office's operation.

Even though there is no legal obligation to inform the media on a regular basis, the Public Defender holds press briefings at the beginning of every month, and sends out monthly bulletins describing the activities in the previous month.³⁵² The reports are published regularly as well, and recommendations are available on the website of the office.³⁵³ Annual reports now contain statistics of the office's operation³⁵⁴ and the quality of the reports in terms of the account of the human rights violations and the Public Defender's work has considerably improved in recent years.³⁵⁵ As in 2011, it is presently impossible to assess the effectiveness of judicial review and whistle-blower mechanisms in terms of the Public Defender's accountability due to the lack of relevant evidence.

Overall, while the Public Defender's accountability has improved to some extent, the maximum score cannot be assigned because of the lack of evidence on judicial review and whistle-blower mechanisms, so the indicator score remains unchanged..

Integrity (Law)

2015 score: 75 (2011 score: 75)

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

The 2011 NIS report noted that, although there was no dedicated code of conduct for the Public Defender's Office, the general public service provisions on integrity, conflict of interest, and other related issues applied to this institution as well. On the negative side, there was a gap in the law in terms of the Public Defender's obligation not to disclose confidential information received from citizens.

There is still no separate Code of Ethics for the Public Defender's office. There is now a separate binding code of conduct for the National Preventive Mechanism, which is under the Public Defender's office and works specifically on preventing cases of torture.³⁵⁶³⁵⁷ However, the scope of

³⁵² Nanuashvili, op cit

³⁵³ Menabde, op cit

³⁵⁴ <http://ombudsman.ge/uploads/other/2/2180.pdf> (accessed on 15 March 2015)

³⁵⁵ Mshvenieradze, op cit

³⁵⁶ Public Defender of Georgia, Code of Ethics of the Members of Special Preventive Group, , 2013

³⁵⁷ Nanuashvili, op cit

this specific code of conduct is limited to the National Preventive Mechanism and does not extend to rest of the staff in Public Defender's office.

There indicator score remains unchanged due to the lack of significant developments since 2011.

Integrity (Practice)

2015 score: 50 (2011 score: N/A)

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

The 2011 NIS report did not assign a score to the Public Defender for integrity in practice because of a lack of verifiable information about this subject.

According to expert interviewees, the most problematic issue with regards to integrity in the Public Defender's office is the appointment of new employees, which does not happen in a transparent manner, and thus, civil society organizations do not have an opportunity to observe the process closely.³⁵⁸ Furthermore, on certain occasions recruitment happens without competition.³⁵⁹ Such a practice puts the integrity at the Public Defender's office at risk. This view has been challenged by the Public Defender's office, which claims that all current employees have been appointed by a designated commission (which includes representatives from labor unions and a CSO) according to the procedure established by the law.³⁶⁰

Other violations at the office pertain to disciplinary issues such as lateness, or undue performance and work. The only case of conflict of interest involved a contracted expert, and not a full-time employee, and was addressed immediately.³⁶¹

The score of 50 is assigned for this indicator due to the mixed evidence available since 2011.

Role: Investigation (Law and Practice)

2015 score: 50 (2011 score: 50)

To what extent is the ombudsman active and effective in dealing with complaints from the public?

The 2011 NIS report concluded that the Public Defender had broad legal powers for the investigation of human rights violations (both proactively and in response to complaints) and had generally applied these powers effectively in practice. The procedure for filing complaints with the Public Defender was simple. However, the effectiveness of the Public Defender's investigations was at times undermined by the lack of cooperation from government agencies, including the Ministry of Internal Affairs and the Prosecutor's Office.

The current Public Defender claims that the government entities are usually responsive when the Public Defender's office addresses them. However, even though the Parliament has become more

³⁵⁸ Gogia, op cit

³⁵⁹ Mshvenieradze, op cit

³⁶⁰ TI Georgia's correspondence with Natia Katsitadze,

³⁶¹ Nanuashvili, op cit

responsive to the reports of the Public Defender,³⁶² some recommendations remain ignored.³⁶³ Importantly, the nature of the recommendations largely determines whether or not their implementation is feasible. Oftentimes, recommendations call for legislative changes, in which case a rapid implementation is difficult to achieve.³⁶⁴ Recently, Parliament has also introduced the practice of adopting a resolution on the Public Defender's annual report which includes recommendations for different public agencies.³⁶⁵

According to the Public Defender's office, the investigations launched following the Public Defender's recommendations are often delayed and do not yield concrete results whenever the case involved an alleged violation committed by a law enforcement officer or an employee of a penitentiary institution. For this reason, the Public Defender has recommended the establishment of an independent investigation mechanism that would deal with the alleged crimes committed by law enforcement and penitentiary officers.³⁶⁶

Lastly, the restriction on the Public Defender's right to take cameras into prisons significantly hinders investigations. A similar limitation exists with regards to the Public Defender's access to secret files of the cases. The office is currently working on initiating legislative changes in this regard.³⁶⁷

Overall, despite some improvements, the situation is largely the same as in 2011, so the indicator score remains unchanged.

Role: Promoting Good Practice (Practice)

2015 score: 50 (2011 score: 50)

To what extent is the ombudsman active and effective in raising awareness within government and the public about standards of ethical behaviour?

According to the 2011 NIS report, the Public Defender had sufficient legal powers to promote good practice and the office did offer public agencies recommendations regularly. However, the office's plans to conduct broader activities in this area, including the training of public officials, had been undermined by the lack of resources.

The Public Defender's office conducts trainings for its own staff in regional offices. However, such trainings are limited to the staff of the entity, and usually do not extend to the ministries and government offices. According to the Public Defender, future activities in this direction are planned, but require additional resources.³⁶⁸ Still, the office did conduct training on gender issues for police officers and Defense Ministry officials in 2014.³⁶⁹

³⁶² TI Georgia's Interview with Maka Gioshvili, Chair of the Board of the Article 42 of the Constitution NGO, 16 May 2014

³⁶³ Gogia, op cit

³⁶⁴ *Ibid*,

³⁶⁵ TI Georgia's correspondence with Natia Katsitadze

³⁶⁶ *Ibid*.

³⁶⁷ Nanuashvili, op cit

³⁶⁸ *Ibid*.

³⁶⁹ TI Georgia's correspondence with Natia Katsitadze

Since the situation is essentially the same as in 2011, the indicator score remains unchanged.

State Audit Office

Summary

The effectiveness of the audits conducted by the State Audit Office (SAO) has improved since 2011, along with its ability to detect irregularities and to contribute to the improvement of public financial management. On the negative side, the SAO continues to face challenges in terms of its access to resources, while its independence is not safeguarded sufficiently in practice.

State Audit Office Overall Pillar Score: 71/100 (2011: 63/100)			
Dimension	Indicator	Law	Practice
Capacity: 58/100 (2011: 58/100)	Resources		50 (2011: 50)
	Independence	75 (2011: 75)	50 (2011: 50)
Governance: 79/100 (2011: 80/100)	Transparency	75 (2011: 75)	100 (2011: 75)
	Accountability	75 (2011: 75)	75 (2011: 75)
	Integrity	100 (2011: 100)	50 (2011: N/A)
Role: 75/100 (2011: 50/100)	Effective financial audits	75 (2011: 50)	
	Detecting and sanctioning misbehaviour	75 (2011: 50)	
	Improving financial management	75 (2011: 50)	
Law and practice average		76 (2011: 66)	69 (2011: 57)

Structure and Organisation

The State Audit Office (SAO) is Georgia's supreme audit institution. According to the Constitution, the SAO is to supervise the use of state funds and other resources of the state. It is also authorised to inspect the activities of other state bodies that are responsible for financial and administrative control and to present proposals regarding the improvement of tax legislation to parliament. The SAO is accountable to parliament, which also appoints its chairperson. As part of the ongoing reform of the SAO, a new law was adopted in December 2008 which defines the status of the agency as the supreme body of state financial and economic control, which conducts audits.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

To what extent does the audit institution have adequate resources to achieve its goals in practice?

According to the 2011 NIS Assessment, there were legal safeguards against arbitrary reduction of the SAO's budget, while funding had increased steadily over previous years and was deemed

adequate. However, the SAO faced problems in the field of human resources, especially in terms of the availability of auditors capable of conducting complex types of audit.

There have been no changes made to the law regarding allocation of resources to the SAO. The entity continues to enjoy its right to request increased budget compared to the previous year and such a request was satisfied in part within the 2014 budget allocations. However, while there is no shortage in terms of funding and infrastructure, the problem persists with adequate staffing.³⁷⁰ For instance, the Temporary Parliamentary Commission in charge of assessing the work of the SAO concluded that the number of administrative staff exceeds the number of auditors at the institution. To address this issue, the position of some administrative staff members has been changed to one of auditor, auditor-assistant or auditor-intern, which points to the lack of qualified experts in the field as well as the lack of clear definition and assignment of staff functions at the SAO.³⁷¹ This is especially problematic when it comes to undertaking new responsibilities of monitoring financing of political parties, a task that places additional burden on the resources of the audit institution.³⁷²³⁷³

Since the situation is largely the same as in 2011, the indicator score remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent is there formal operational independence of the audit institution?

The 2011 NIS report noted that the legal framework contained important provisions designed to safeguard the agency's independence. The law also guaranteed the SAO's autonomy in determining its own agenda. The SAO head was protected from arbitrary dismissal but there were no similar safeguards for other officers of the institution.

A change in regulations in 2012, which increased powers of the Temporary Parliamentary Commission, affected the independence of the audit institution. Specifically, along with its initial right to conduct the SAO's financial audit, the Commission was also granted the right to assess the SAO's efficiency and performance.³⁷⁴ This provision, which was in conflict with widely recognized standards of International Organisation of Supreme Audit Institutions (INTOSAI), gave Parliament an increased means of control and oversight of the SAO, thus putting the latter's independence at risk.³⁷⁵³⁷⁶ However, the change was reversed in 2014.³⁷⁷

The situation is therefore essentially the same as in 2011, so the indicator score remains unchanged.

³⁷⁰ TI Georgia's interview with Inga Sinjikashvili, Public Finance Management Advisor at GIZ, 3 April 2014

³⁷¹ <http://www.parliament.ge/ge/announcements-all/announcements-main/saxelmwifo-auditis-samsaxuris-2013-wlis-safinanso-ekonomikuri-samartlebrivi-da-organizaciuli-saqmianobis-auditis-xarisxis-kontrolisa-da-shida-kontrolis-procedurebis-shemowmebis-shedegebi.page> (accessed on 15 March 2015)

³⁷² The Law on State Audit Office, adopted on 26 December 2008, Article 6 (2)

³⁷³ Sinjikashvili, op cit

³⁷⁴ The Law on State Audit Office, Article 35

³⁷⁵ Sinjikashvili, op cit

³⁷⁶ TI Georgia's interview with Devi Vepkhvadze, Deputy General Auditor at Supreme Audit Institution, 3 April 2014

³⁷⁷ The Law on State Audit Office, Article 14.

Independence (Practice)

2015: 50 (2011 Score: 50)

To what extent is the audit institution free from external interference in the performance of its work in practice?

The 2011 NIS Assessment noted that, while the SAO was independent in its routine work, the general political environment undermined its independence and ability to confront powerful political interests and influential officials. The president's party controlled an overwhelming majority of seats in Parliament, making it possible for the government and the ruling party to influence the SAO's work.

The SAO's politicization was especially evident in the run-up to the 2012 parliamentary elections when "the perception of its independence and impartiality was severely undermined by the political affiliations of its management."³⁷⁸ According to the OSCE assessment, this was illustrated in 40 cases in which the SAO applied its new powers to enforce party financing regulations disproportionately against opposition parties and their donors.³⁷⁹ The situation appears to have improved since then as there were no similar critical statements concerning the SAO's work during the 2013 and 2014 elections.

Since late 2012, following a series of arrests of former senior public officials from the UNM-led government, the law enforcement agencies also questioned a number of leading staff members of the audit institution which raised concerns about undue interference in the SAO's work.³⁸⁰ The activities of the Temporary Parliamentary Commission also contained signs of unwarranted interference in the SAO's work.³⁸¹

Because of the persisting questions and concerns over the SAO's independence, the indicator score remains unchanged.

Transparency (Law)

2015: 75 (2011 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 SAI?

According to the 2011 NIS report, the legal framework contained a number of provisions designed to ensure transparent operation of the SAO, although the regulations concerning public access to audit reports were ambiguous as the law did not expressly require the SAO to publish them. There was no requirement for the publication of the SAO's own audit and there was no deadline for the publication of the SAO's reports submitted to Parliament.

This ambiguity has not been resolved since legal regulations covering the transparency of the SAO's work have remained the same.

³⁷⁸ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*,.15

³⁷⁹ *Ibid.*

³⁸⁰ Vepkhvadze, op cit

³⁸¹ <http://transparency.ge/en/node/4443> (accessed on 15 March 2015)

Since the situation is the same as in 2011, the indicator score remains unchanged.

Transparency (Practice)

2015 score: 100 (2011 Score: 75)

To what extent is there transparency in the activities and decisions of the audit institution in practice?

The 2011 NIS report noted that the SAO operated an informative website and was very responsive to requests for public information. On the negative side, audit reports were not posted on the website.

In contrast to the previous findings, the number of audit reports that are published online as well as other related documents, including those on the budget of the audit institution, has increased significantly during the period covered by this report. At the same time, the SAO has intensified its cooperation with the Parliament and the media providing the former with all approved reports while informing the latter about the main findings.³⁸²³⁸³ The SAO also publishes on its website a list of its annual priorities.³⁸⁴

Because of these positive developments, the indicator score has increased from 75 in 2011 to 100 in 2015.

Accountability (Law)

2015 score: 75 (2011 Score: 75)

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

According to the 2011 NIS report, the law included reporting requirements for the SAO (including the requirement to submit annual reports to Parliament and the provision concerning the audit of the SAO's finances by a special parliamentary commission) and provided for the establishment of a special body called Presidium for the adjudication of complaints against the agency's decisions. On the negative side, there was no legal provision for an independent audit of the SAO.

There have not been any changes in the law pertaining to the work of the Presidium.³⁸⁵ The General Auditor defines the composition and the number of members of the Presidium.³⁸⁶ As for the independent audit of the SAO, this function with enhanced mandate has been delegated to Temporary Parliamentary Commission under the 2012 legal amendments discussed above.

Since the situation is largely the same as in 2011, the indicator score remains unchanged.

³⁸² Vepkhvadze, op cit

³⁸³ Sinjikashvili, op cit

³⁸⁴ <http://sao.ge/files/auditi/clirui-gegma/2015-prioriteti.pdf> (accessed on 15 March 2015)

³⁸⁵ The Law on State Audit Office, Article 13

³⁸⁶ The Law on State Audit Office, article 8 (3)

Accountability (Practice)

2015 score: 75 (2011 Score: 75)

To what extent does the SAI have to report and be answerable for its actions in practice?

According to the 2011 NIS assessment, the SAO reported to Parliament regularly as required by the law and submitted annual reports that contained a review of the SAO's audits and other activities throughout the year. At the same time, it was impossible to assess the effectiveness of the Presidium as it had not dealt with any complaints at the time. No independent audit of the SAO had been conducted.

Based on the 2013 report of Temporary Parliamentary Commission, the role of the Presidium is redundant since it has not received any complaints about the content and quality of audit reports.³⁸⁷ In its 2014 assessment, the same Commission criticized the SAO for not releasing information about the work of the Presidium, which once again questioned the need of having such a body at all.³⁸⁸ While agreeing to this conclusion, the SAO representatives explained how they deal with complaints from audited entities in practice and what role the Presidium plays in this process. Stemming from its nature as a preventive body, the SAO actively collaborates with audited entities before the final audit report is released. Therefore, any problems or disagreements between the two parties are normally discussed and settled before the release of the report. At the same time, the SAO has developed a follow-up methodology to check how the audited entities are addressing its recommendations.³⁸⁹ Due to such procedural arrangements, the number of complaints submitted to the Presidium is low and therefore this body is gradually losing its relevance.³⁹⁰³⁹¹

The situation is therefore largely the same as in 2011, so the indicator score remains unchanged.

Integrity (Law)

2015 score: 100 (2011 score: 100)

To what extent are there mechanisms in place to ensure the integrity of the audit institution?

The 2011 NIS report noted that the SAO had a detailed Code of Ethics for its auditors which established guidelines in a number of areas, including integrity and conflict of interest. The general integrity rules for civil service established through the Law on Conflict of Interest and Corruption in Public Service and the Law on Public Service also applied to the SAO's employees.

The legal framework and a Code of Ethics covering the integrity of the SAO have not undergone any changes since 2011.

³⁸⁷ <http://www.parliament.ge/ge/announcements-all/announcements-main/saxelmwifo-auditis-samsaxuris-2013-wlis-safinanso-ekonomikuri-samartlebrivi-da-organizaciuli-saqmianobis-auditis-xarisxis-kontrolisa-da-shida-kontrolis-procedurebis-shemowmebis-shedegebi.page> (accessed on 15 March 2015)

³⁸⁸ *Ibid.*

³⁸⁹ Vepkhvadze, op cit

³⁹⁰ *Ibid.*

³⁹¹ Sinjikashvili, op cit

The indicator score remains unchanged since the situation is the same as in 2011.

Integrity (Practice)

2015 score: 50 (2011 score: N/A)

To what extent is the integrity of the audit institution ensured in practice?

The 2011 NIS report did not assign the SAO a score for integrity in practice since the Code of Ethics was only adopted shortly before the publication of the report and there was not sufficient evidence for assessment.

While there have not been any major cases involving the breach of integrity rules by the SAO staff, a number of its employees were sacked for violating the Code of Ethics.³⁹² In the wider political context, the SAO's disproportionate use of powers to impose unreasonably high fines on opposition parties running for 2012 parliamentary elections (which was highlighted in the section on independence above) can also be considered as a clear violation of integrity rules pertaining to political impartiality of the audit institution. The OSCE/ODIHR Election Observation Mission noted that at the time that the SAO "failed overall to apply the law in a transparent, independent, impartial and consistent manner, targeting mainly the opposition."³⁹³ No accusations of this type were made against the SAO during the 2013 presidential election, indicating that the situation has improved.

Because of a mixed record in terms of the integrity of the SAO, the score of 50 is assigned for this indicator.

Role: Effective Financial Audits (Law and Practice)

2015 score: 75 (2011 score: 50)

To what extent does the audit institution provide effective audits of public expenditure?

The 2011 NIS report noted that, while the SAO's ability to conduct financial audits had improved in the preceding years, the agency still faced important problems in terms of capacity and so its audits were limited in scope.

While before the main task of the SAO was to undertake compliance audits, in recent years it has also become more active in conducting performance and financial audits to ensure the best value for taxpayers' money.³⁹⁴ In 2013 alone, the SAO conducted a total of 97 financial, compliance and budget execution audits, which is almost twice as high as the number of similar audits conducted in 2012 and 2011: 24 and 29 respectively.³⁹⁵ According to an expert interviewee, the SAO has the capacity to undertake effective financial audits, carried out by a separate department within the

³⁹² *Ibid.*

³⁹³ OSCE/ODIHR, *Georgia: Parliamentary Elections 2012*, 2.

³⁹⁴ Sinjikashvili, op cit

³⁹⁵ <http://transparency.ge/en/post/report/2013-audits-by-state-audit-office-of-georgia-major-trends-problems-and-recommendations> (accessed on 15 March 2015)

audit institution.³⁹⁶ In contrast with 2011, in order to ensure high quality, these financial audits, before final release, are also cross-checked by the Quality Assurance Department, a process of the so called “Hot Review” and “Cold Review” under the SAO’s quality assurance mechanism.³⁹⁷³⁹⁸

Because of these positive changes, the indicator score has increased from 50 in 2011 to 75 in 2015.

Role: Detecting and Sanctioning Misbehaviour (Law and Practice)

2015 score: 75 (2011 score: 50)

Does the audit institution detect and investigate misbehavior of public officeholders?

The 2011 NIS report noted that the SAO had the legal powers and the practical tools for identifying and reviewing irregularities but did not have sufficient independence to confront the most powerful elements inside the government. Also, the general spirit of the reforms implemented at the time was to transform the SAO into an advisory body, rather than an investigative or punitive one.

Following the 2012 parliamentary elections and the coming into power of the Georgian Dream coalition, the SAO’s main focus has been to audit the work of the previous government led by the UNM party, especially in the context of a series of arrests of the UNM members, former senior public officials, who were charged with corruption and malfeasance. In such cases, considering that the SAO itself does not have power to sanction the audited entities for violations, it normally sends a report on violations to Prosecutor’s Office.³⁹⁹ On a number of occasions, however, the Prosecutor’s Office complained about certain cases not being referred to them, which might have been significant violations.⁴⁰⁰ The issue here is that the SAO sees its role as a preventive body focused on finding systemic weaknesses and addressing them, rather than chasing individual cases of corrupt behaviour. Such an approach might be unusual to the Prosecutor’s Office, which is why they have difficulty accepting it.⁴⁰¹

The SAO’s auditing of the Georgian Dream-led government is still ongoing. Yet, the supreme audit institution has already found a number of irregularities in the work of the new government as well, including within the powerful Ministry of Internal Affairs, which, due to the SAO’s political dependence on the former ruling UNM party, was not the subject to comprehensive auditing before. Against this background and based on the audits conducted in 2013, the SAO identified the following main issues with the accountability of the Ministry of Internal Affairs: procurement of goods and services through simplified procedures bypassing legal requirement to announce bidding; improper planning of budgetary programs resulting in wasteful spending; flawed accounting practices omitting important data on spending, including on salaries; unreasonably high amount of bonuses issued to senior officials in short periods of time.⁴⁰² Such a turnaround in the SAO’s auditing practices points to

³⁹⁶ Alapishvili, op cit

³⁹⁷ *Ibid.*

³⁹⁸ Vepkhvadze, op cit

³⁹⁹ Sinjikashvili, op cit

⁴⁰⁰ *Ibid.*

⁴⁰¹ *Ibid.*

⁴⁰² <http://transparency.ge/en/post/report/2013-audits-by-state-audit-office-of-georgia-major-trends-problems-and-recommendations> (accessed on 15 March 2015)

the fact that the supreme audit institution is both capable and more willing than before to audit even the most powerful government agencies.

Because of these positive developments, the indicator score has increased from 50 in 2011 to 75 in 2015.

Role: Improving Financial Management (Law and Practice)

2015 score: 75 (2011 score: 50)

To what extent is the SAI effective in improving the financial management of government?

According to the 2011 NIS report, the SAO had the legal power to give recommendations to public agencies concerning their financial management, although its ability to do this in practice was undermined by an insufficient number of qualified auditors.

The quality and impact of the SAO's recommendations on public financial management has improved. In 2013, the SAO published a report assessing the effectiveness of public internal financial control systems in a number of public agencies. According to the report, these systems which are focused on inspection and sanctions fail to correspond to international standards, according to the main findings of the SAO report. The report also found that internal auditors lacked independence and capacity to conduct high quality audits and to contribute to improving the financial management of entities they audit.⁴⁰³ Based on these findings, the SAO developed a list of recommendations for the government.⁴⁰⁴ In response, the Ministry of Finance prepared a set of legislative amendments reflecting the SAO's recommendations, while one public agency (the Ministry of Education and Science) started implementing changes in practice.⁴⁰⁵ The SAO is going to publish a follow-up report to measure the impact of its recommendations in 2016.⁴⁰⁶

Based on these positive developments, the indicator score has increased from 50 in 2011 to 75 in 2015.

⁴⁰³ The State Audit Office, *Efficiency Audit of Government's Internal Financial Control Measures*, 22 April 2013, 4-6

⁴⁰⁴ *Ibid.*

⁴⁰⁵ Vepkhvadze, op cit

⁴⁰⁶ *Ibid.*

Political Parties

Summary

Georgia's legal framework remains conducive to the establishment and operation of political parties. Compared with 2011, financial resources are distributed more evenly between the ruling party and the opposition, although the current ruling coalition still enjoys considerable advantage in terms of private donations. Transparency of political parties has improved both in law and practice but gaps remain in terms of their accountability, especially in terms of campaign funding oversight. Georgian political parties have failed to improve their internal democratic governance, which is likely to have contributed to the persistently negative image of political parties among the general public. Georgian parties also continue to underperform in terms of aggregation and representation of social interests, while also devoting insufficient attention to corruption in their platforms.

Political Parties Overall Pillar Score: 54/100 (2011: 48/100)			
Dimension	Indicator	Law	Practice
Capacity: 75/100 (2011: 69/100)	Resources	100 (2011: 100)	50 (2011: 25)
	Independence	100 (2011: 100)	50 (2011: 50)
Governance: 63/100 (2011: 50/100)	Transparency	100 (2011: 75)	75 (2011: 50)
	Accountability	75 (2011: 50)	50 (2011: 50)
	Integrity	50 (2011: 50)	25 (2011: 25)
Role: 25/100 (2011: 25/100)	Interest aggregation and representation		25 (2011: 25)
	Anti-corruption commitment		25 (2011: 25)
Law and practice average		85 (2011: 75)	43 (2011: 36)

Structure and Organisation

A dominant ruling party and a fragmented opposition that has been unable to come together has been a consistent feature of Georgia's political system since the 1990's. The situation changed somewhat when the opposition Georgian Dream coalition won the 2012 parliamentary elections and former ruling United National Movement (UNM) party formed a strong opposition in the legislature. Presently, seven political parties are represented in Parliament, including the five parties that form the ruling coalition.

Resources (Law)

2015 score: 100 (2011 Score: 100)

To what extent does the legal framework provide a conducive environment for the formation and operation of political parties?

The 2011 NIS Assessment noted that Georgia's legal framework (including the Constitution and the Law on Political Associations of Citizens) did not establish any serious obstacles to the establishment and operation of political parties. The Ministry of Justice could only deny a party registration if its documents were not compliant with the legal requirements and such refusal could be challenged in court. The restrictions on the establishment of political parties were generally reasonable as the Constitution prohibited formation of a political party that aimed to destroy or violently change the constitutional order or violate the country's independence or territorial integrity, advocated war and violence, or incited ethnic, communal, religious or social hatred.

The legal provisions concerning the establishment of political parties have remained unchanged. A number of tight rules limiting political parties' access to resources were introduced in the Law on Political Associations of Citizens in December 2011 (after the publication of the last NIS report). These included a ban on corporate donations to parties, restrictions on their cooperation with a broad range of organizations and individuals, and disproportionate sanctions for violating those rules.⁴⁰⁷ However, following the outcry from civil society and media organizations, Parliament lifted the aforementioned restrictions in 2012-2013.⁴⁰⁸ Furthermore, in the same period, Parliament increased state financing of those parties that won at least three per cent of the vote in the most recent parliamentary or local elections.⁴⁰⁹ Based on those changes, the legislation has become more adequate in creating financial incentives for the operation of political parties.⁴¹⁰ Further provisions have been added to the law to allocate electoral campaign funding for the parties that win at least five per cent of the vote in the parliamentary elections, at least 10 per cent of the vote in the presidential election, or at least three per cent of the vote in local elections.⁴¹¹

The current mixed system for the allocation of seats in the parliamentary elections has a negative impact on the environment for the operation of political parties as it fails to ensure either proportional representation or equality of vote. Both international and local organizations have urged the government to change it.⁴¹²

After a brief deterioration in late 2011 and early 2012, the situation eventually returned to the status quo described in the last NIS report and further positive changes occurred in 2012 and 2013, so the indicator score of 100 remains unchanged.

Resources (Practice)

2015 score: 50 (2011 Score: 25)

To what extent do the financial resources available to political parties allow for effective political competition?

⁴⁰⁷ <http://civil.ge/eng/article.php?id=24318> (accessed on 20 March 2015)

⁴⁰⁸ <http://www.civil.ge/eng/article.php?id=26337> (accessed on 20 March 2015)

⁴⁰⁹ *Ibid.*

⁴¹⁰ TI Georgia's interview with Levan Tsutskiridze, Netherlands Institute for Multiple Democracy Representative in the South Caucasus, 30 September 2014

⁴¹¹ The Electoral Code, Article 56.

⁴¹² <http://www.isfed.ge/main/330/eng/>; <http://www.osce.org/odihr/98399?download=true> (accessed on 20 March 2015)

The 2011 NIS report concluded that financial resources were distributed unevenly between the opposition and the ruling party of the time: The United National Movement (UNM). For example, in the 2008 parliamentary elections, the UNM's spending had exceeded the spending of the largest opposition coalition by a factor of 25 (USD 7.2 million vs. USD 289,000). This disparity was believed to have largely arisen from the fact that opposition parties struggled to obtain any donations from the business sector while the UNM received ample donations from private companies. The ruling party also enjoyed exclusive access to the administrative resources of the state, as well as better access to the country's most influential media.

Like its predecessor (the UNM), current ruling coalition Georgian Dream has a better access to resources than any other political party in Georgia, although the gap is not as big as it was in the past. For example, in 2013, Georgian Dream spent a total of GEL 6.4 million (USD 2.92 million), while the opposition UNM spent GEL 4.9 million (USD 2.24 million).⁴¹³ Georgian Dream spent GEL 6.3 million (USD 2.88 million) for the 2014 local elections, while the UNM spent GEL 2.4 million (USD 1.09 million).⁴¹⁴ However, there is still a considerable gap between the ruling coalition and the leading opposition party in terms of donations: Georgian Dream received GEL 5.2 million (USD 2.37 million) in donations for the 2014 local elections, while the UNM only received GEL 299,000 (USD 136,848).⁴¹⁵ Donation figures for 2013 showed a similar gap, with Georgian Dream receiving GEL 4.5 million (USD 2.05 million) in 2013 and the UNM receiving only GEL 414,000 (USD 189,482).⁴¹⁶ The persistent donations gap between the ruling party and the opposition, as well as the sharp decline in the donations made to UNM after the party was voted out of power (from GEL 21.2 million to GEL 414,000 in 2013)⁴¹⁷, indicate that the access of Georgian political parties to financing continues to depend largely on whether they are in power or in opposition.

Overall, while the gap in donations between the ruling party and the opposition remains a problem, the decrease in the total spending gaps means that financial resources are presently distributed more evenly than in the past, so the indicator score has increased from 25 in 2011 to 50 in 2015.

Independence (Law)

2015 score: 100 (2011 Score: 100)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

The 2011 NIS report found that Georgia's legal framework did not create any opportunities for undue external interference in the activities of political parties and also established safeguards

⁴¹³ Transparency International Georgia, *Georgian Political Party Finances in 2013*, Transparency International Georgia, Tbilisi, 2013, 18.

⁴¹⁴ http://sao.ge/files/finansuri%20monitoringi/2014_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf (accessed on 20 March 2015)

⁴¹⁵ http://sao.ge/files/finansuri%20monitoringi/2014_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf (accessed on 20 March 2015)

⁴¹⁶ TI Georgia, *Georgian Political Party Finances in 2013*, 14.

⁴¹⁷ *Ibid.*

against arbitrary dissolution of political parties: A political party could only be banned through the Constitutional Court's decision.

The controversial restrictions on the financing of political parties introduced in 2011 (and discussed in the section on resources in law above) also affected the independence of political parties negatively. This was clearly outlined by a group of civil society organizations and activists who launched the campaign called *This Affects You Too*. The campaign petition condemned the restrictions as an unacceptable infringement on citizens' political activity and freedom of expression, amongst other rights.⁴¹⁸ These restrictions were abolished in 2013 and the Georgian legal framework once again became conducive to ensuring freedom of activities of political parties.⁴¹⁹⁴²⁰

Following the reversal of the late 2011 amendments in 2013, the legal framework is essentially the same as it was at the time of the publication of the 2011 NIS report, so the indicator score remains unchanged.

Independence (Practice)

2015 score: 50 (2011 Score: 50)

To what extent are political parties free from unwarranted external interference in their activities in practice?

The 2011 NIS report noted that Georgia's political parties were generally protected from the state's interference in their activities in practice and no party had been banned by the government during the period of time covered by the assessment. However, there were credible allegations of harassment and intimidation of opposition activists, especially during election campaigns, which had not been investigated properly by the authorities.

Such instances of ruling party pressure and intimidation towards opposition activists, including discriminatory rhetoric and detentions, were noted throughout the campaign before 2012 parliamentary elections.⁴²¹ The 2013 presidential elections and the pre-election environment was less polarized and characterized by fewer instances of harassment and intimidation, yet it was still dominated by personality politics.⁴²² As for the 2014 local self-government elections, there were a number of acts of pressure on opposition candidates as a result of which the latter had to withdraw from elections. These acts were not followed through by law enforcement agencies.⁴²³ The Parliamentary Assembly of Council of Europe, while highlighting "improved electoral environment,"

⁴¹⁸ <http://www.civil.ge/eng/article.php?id=24451> (accessed on 20 March 2015)

⁴¹⁹ Tsutskiridze, op cit

⁴²⁰ TI Georgia's interview with Dr. Canan Atilgan, Director of Konrad Adenauer Stiftung in Georgia, 3 October 2014

⁴²¹ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*, 12-14

⁴²² OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 9-11

⁴²³ ISFED, 2014, 11

has noted reports of intimidation of opposition activists and violent attacks against opposition politicians, including members of Parliament.⁴²⁴

Overall, despite some improvements, the developments of the last three years indicate that the problems highlighted in the 2011 report have not been addressed, so the indicator score remains unchanged.

Transparency (Law)

2015 score: 100 (2011 Score: 75)

To what extent are there regulations in place that require parties to make their financial information publicly available?

The 2011 NIS assessment found that Georgia's legal framework contained a number of provisions designed to ensure transparent operation of political parties. Namely, the Central Electoral Commission (CEC) was required to publicize the information about the donations received by political parties both during election campaigns and between elections, while the parties were also required to submit annual financial declarations and audit reports by 1 February every year. Anonymous donations were not allowed by the law. On the negative side, there was no requirement for posting these documents online.

The legal framework covering the transparency of political parties in Georgia has improved since 2011. Specifically, under the amendments to Law on Political Associations of Citizens, the State Audit Office (SAO) in charge of monitoring party financing has an obligation to publish parties' financial declarations on its web page within five days from their submission, which was not the case before.⁴²⁵ While the parties themselves are still not required to proactively publish their financing data on their websites, the fact that they have to submit all relevant information to the SAO which then has to publish this information online is an improvement from previous regulations.

Because of this positive change in the legal framework, the indicator score has increased from 75 in 2011 to 100 in 2015.

Transparency (Practice)

2015 score: 75 (2011 Score: 50)

To what extent do political parties make their financial information publicly available?

The 2011 NIS report noted that, while Georgia's political parties did file their annual financial reports, audit reports and campaign finance reports with the relevant authorities as required by the law, the majority of them did not post information about the donations they had received on their websites. The CEC website did carry the campaign finance reports of political parties but not their annual financial reports.

⁴²⁴ <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21275&lang=en> (accessed on 20 March 2015)

⁴²⁵ The Law on Political Associations of Citizens, Articles 26 (6) and 32 (3)

Following the legal amendments mentioned above, party financing data has become more accessible in practice too. Since January 2012, along with parties' annual financial declarations, the SAO has started publishing information on party donations and campaign spending separately on its website.⁴²⁶ In addition, the SAO provided parties with standardized online forms to fill out on their income, expenditures and financial transactions.⁴²⁷ On the negative side, the majority of Georgia's leading political parties do not proactively publish the information about their finances and donors on their websites. Only one of the seven political parties represented in parliament has posted up to date financial information on its website.⁴²⁸

Improvements in online access to information about party financing are an important step forward which justifies an increase in the indicator score from 50 in 2011 to 75 in 2015.

Accountability (Law)

2015 score: 75 (2011 Score: 50)

To what extent are there provisions governing financial oversight of political parties?

The 2011 NIS Assessment concluded that the legal framework contained a number of provisions designed to ensure accountability of political parties. Namely, the parties that failed to publish their annual financial declarations could have their public funding withdrawn. Parties were required to file monthly reports on their campaign funding to the CEC and their spending was to be reviewed by the CEC's Financial Monitoring Group (FMG). However, there were gaps in the regulations, since the monthly reporting requirement only meant one financial report per campaign, while the FMG only scrutinized the donations received by parties, rather than both donations and spending.

A change in regulations in late 2011 delegated the function of monitoring party financing in Georgia to the country's supreme audit institution: The State Audit Office (SAO).⁴²⁹ The OECD ACN has welcomed the changes in the legal framework implemented in recent years, noting that "Georgia took important steps to align its legislation on political financing with the European standards" by improving the monitoring of campaign donations and expenditures, as well as introducing regular reporting during and after election campaigns and monthly publication of information on donations.⁴³⁰ On the Negative side, The OSCE/ODIHR has noted that "some legal provisions remain ambiguous and inconsistent," including the lack of a "concrete deadline for addressing violations within the electoral timeframe" and "inconsistencies with regards to applicable sanctions for violations."⁴³¹

The improvements in the legal provisions on political party accountability justify an increase in the indicator score from 50 in 2011 to 75 in 2015.

⁴²⁶ <http://sao.ge/en/financial-monitoring-service-of-political-parties/declaration> (accessed on 20 March 2015)

⁴²⁷ <http://sao.ge/financial-monitoring-service-of-political-parties/declaration/declaration-forms> (accessed on 20 March 2015)

⁴²⁸ TI Georgia reviewed the websites of the seven political parties in question in March 2015.

⁴²⁹ The Law on State Audit Service, Article 6 (2)

⁴³⁰ OECD ACN, 2013, 89.

⁴³¹ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 12.

Accountability (Practice)

2015 score: 50 (2011 Score: 50)

To what extent is there effective financial oversight of political parties in practice?

The 2011 NIS report found that the effectiveness of the legal provisions designed to ensure the accountability of political parties was undermined by the weakness of audit and verification mechanisms in practice. The CEC, in particular, did not have sufficient capacity to verify the accuracy of the financial reports filed by political parties and there were doubts regarding the reliability of their audit reports.

Compared with the CEC, the SAO is considered to be more capable of undertaking effective financial oversight of political parties.⁴³² However, the SAO's monitoring powers were applied disproportionately in the run-up to the 2012 parliamentary elections against the political opponents of the ruling party.⁴³³ Although the SAO did not demonstrate a similar political bias during the 2013 presidential election, the OSCE/ODIHR described its monitoring activities as "largely insufficient and formalistic," noting that the SAO failed to sanction a number of apparent violations.⁴³⁴

Overall, despite the improvements in the SAO's work, the remaining problems mean that a higher score cannot be justified, so the indicator score remains the same.

Integrity (Law)

2015 score: 50 (2011 score: 50)

To what extent are there regulations on the democratic governance of political parties?

According to the 2011 NIS report, Georgia's legal framework contained limited provisions concerning democratic governance of political parties. They were required to hold a general convention of their members every four years to elect their leadership. There were, however, no provisions to ensure the selection of candidates of Georgian political parties for elections through a democratic and participatory process.

Legal provisions concerning democratic governance of political parties have not changed since 2011.

The indicator score remains the same because of a lack of change since 2011.

Integrity (Practice)

2015 score: 25 (2011 score: 25)

To what extent is there effective internal democratic governance of political parties in practice?

⁴³² Atilgan, op cit

⁴³³ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*, 15

⁴³⁴ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 13.

The 2011 NIS report concluded that Georgian political parties lacked effective mechanisms for internal democratic governance and were instead centered around their leaders. Party members had limited influence on the selection of party officials and the formulation of platforms and policies. As a result, leadership change was rare in Georgian parties even after major electoral defeats.

No tangible improvement has taken place since 2011. Parties continue to have a low degree of internal democratic governance which is due to the fact that they are heavily dependent on their leaders. The parties' general conventions have a formal character only and fail to involve different segments of society (e.g., women, youth, and minorities) in decision-making that suffers from a lack of transparency.⁴³⁵⁴³⁶

There was only a single case when a Georgian political party, namely the UNM, held primaries to select the most popular candidate of the four contenders running for 2013 presidential election.⁴³⁷ However, holding primaries was a one-off occurrence in Georgian politics and even the same party decided not to hold primaries to reveal the candidate for the post of Tbilisi Mayor in 2014 local self-government elections.⁴³⁸ Georgian political parties therefore continue to have difficulties in institutionalizing such practices within their governance systems.

The situation in this area is largely the same as in 2011, so the indicator score remains unchanged.

Role: Interest Aggregation and Representation (Practice)

2015 score: 25 (2011 score: 25)

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

The 2011 NIS report noted that Georgia's political parties lacked the ability to formulate clear platforms reflecting the public's interests because of their lack of a strong social base and proper membership structure. It was therefore more common for parties in Georgia to promote the interests of their leaders. As a result, the public's view of political parties was predominantly negative, as reflected by the results of opinion polls.

These issues have not been addressed during the time covered by this report. While being dependent on their leaders, political parties fail to present policy agendas or conduct meaningful discussions on important issues facing Georgian society.⁴³⁹ This also has to do with the fact they do a limited amount of outreach, which is mostly evident during the pre-election period, while their capacity and professional resources continue to be limited.⁴⁴⁰ This in turn creates a gap between parties and the citizens. Given the parties reluctance to reach out to their constituents and establish

⁴³⁵ Tsutskiridze, op cit

⁴³⁶ TI Georgia's interview with Ia Tikanadze, County Director for Friedrich-Ebert-Stiftung Representation in Georgia, October 2014

⁴³⁷ <http://www.civil.ge/geo/article.php?id=27079> (accessed on 20 March 2015)

⁴³⁸ <http://www.civil.ge/geo/article.php?id=27955> (accessed on 20 March 2015)

⁴³⁹ Tsutskiridze, op cit

⁴⁴⁰ Tikanadze, op cit

regular channels of communication with them, the latter are also not interested in reading the party platforms while continuing to vote in terms of the leadership appeal.⁴⁴¹

As a result, the public's view of political parties remains negative. In the 2013 Caucasus Barometer survey, only 13 per cent of the respondents said that they "fully trust" or "somewhat trust" political parties, while 27 per cent said that they "fully distrust" or "somewhat distrust" them.⁴⁴²

Since the situation has not changed after 2011, the indicator score remains the same.

Role: Anti-Corruption Commitment (Practice)

2015 score: 25 (2011 score: 25)

To what extent do political parties give due attention to public accountability and the fight against corruption?

According to the 2011 NIS report, Georgian political parties did not devote significant attention to the problem of corruption in their platforms of the 2008 parliamentary elections. One possible explanation for this tendency was the fact that petty corruption was no longer considered a major problem in Georgia at that point, while highlighting more complex types of corruption required a lot of research that the parties were not prepared to undertake.

Corruption issues continue to be underrepresented or absent altogether in political parties' founding charters or campaign platforms. For instance, of the six top parties in 2012 parliamentary elections, only the Georgian Dream coalition made a commitment in its Founding Declaration to free public service of the ruling party's pressure and partisan interests in general.⁴⁴³ Meanwhile, the UNM (the party that won the second place in the elections) mostly focused on its achievements in combating corruption during its time in power.⁴⁴⁴ On the other hand, of the three major candidates running in 2013 presidential election, only Nino Burjanadze included a specific commitment in her campaign platform to curb corruption. This commitment envisioned setting up a financial monitoring service under the President in charge of monitoring assets of high level public officials.⁴⁴⁵ Georgian Dream candidate Giorgi Margvelashvili, who eventually won the presidential election, only made a general statement on good governance in his platform saying that local self-governing units should become more autonomous from the central government and be held directly accountable to their constituents.⁴⁴⁶

Similar types of general statements on prioritizing transparency and public participation in decision-making were made by Georgian Dream in the coalition's pre-election platform for 2014 local self-government elections.⁴⁴⁷ The UNM, once again, focused largely on the reforms implemented in the

⁴⁴¹ *Ibid.*

⁴⁴² <http://caucasusbarometer.org/en/cb2013ge/TRUPPS/> (accessed on 20 March 2015)

⁴⁴³ <http://www.ivote.ge/images/doc/pdfs/ocnebis%20saarchevno%20programa.pdf> (accessed on 20 March 2015)

⁴⁴⁴ <http://www.ivote.ge/images/doc/pdfs/nacionalebis%20programa.pdf> (accessed on 20 March 2015)

⁴⁴⁵ http://www.democrats.ge/images/docs/prgramma_2013.pdf (accessed on 20 March 2015)

⁴⁴⁶ <http://ick.ge/rubrics/politics/15844-i.html> (accessed on 20 March 2015)

⁴⁴⁷ <http://www.scribd.com/doc/226971001/%E1%83%94%E1%83%A0%E1%83%97%E1%83%90%E1%83%93-%E1%83%95%E1%83%98%E1%83%96%E1%83%A0%E1%83%A3%E1%83%9C%E1%83%9D%E1%83%97->

past and pledged to further increase the level of government transparency.⁴⁴⁸ Yet, neither party identified specific challenges of anti-corruption policy or the ways of addressing them.

Overall, the situation has not changed significantly since 2011, so the indicator score remains unchanged.

[%E1%83%97%E1%83%91%E1%83%98%E1%83%9A%E1%83%98%E1%83%A1%E1%83%96%E1%83%94](#)

(accessed on 20 March 2015)

⁴⁴⁸ http://www.unm.ge/uploads/Program_UNM_final.pdf (accessed on 20 March 2015)

Media

Summary

Georgia's media sector has improved in a number of ways since 2011. Political influence over the country's key TV stations has decreased, resulting in a more diverse and balanced coverage of political and governance issues. Transparency has also increased through the introduction of legal provisions requiring disclosure of ownership and financing sources. On the negative side, the composition of the Georgian Public Broadcaster's board is the subject of ongoing dispute. Media accountability and integrity remain problematic because of poor enforcement and, in some cases, complete lack of appropriate rules and codes of ethics. The media coverage of corruption has improved but further progress is needed in this area.

Media Overall Pillar Score: 60/100 2011: 45/100			
Dimension	Indicator	Law	Practice
Capacity: 69/100 (2011: 63/100)	Resources	100 (2011: 100)	50 (2011: 50)
	Independence	75 (2011: 75)	50 (2011: 25)
Governance: 54/100 (2011: 50/100)	Transparency	100 (2011: 100)	50 (2011: 25)
	Accountability	75 (2011: 75)	25 (2011: 25)
	Integrity	50 (2011: 50)	25 (2011: 25)
Role: 58/100 (2011: 25/100)	Investigate and expose corruption		50 (2011: 25)
	Inform public on corruption and its impact		50 (2011: 25)
	Inform public on governance issues		75 (2011: 25)
Law and practice average		80 (2011: 80)	47 (2011: 28)

Structure and Organisation

Television is by far the most popular and influential type of media in Georgia. There are only three main stations that provide news coverage on a national level: Rustavi-2, Imedi and the Georgian Public Broadcaster's (GPB) Channel 1. GPB's Channel 2 televises political parties' press conferences and parliamentary sessions. Three more TV stations with original news and current affairs program, Maestro TV, Tabula TV, and TV3, reach several Georgian cities. Adjara TV, a former state-run channel was recently transformed into the Adjaran Public Broadcaster covering most of the country. In addition, there are 21 regional TV stations as well as a number of radio stations, newspapers, magazines and news agencies. However, their impact is less significant compared to TV channels. The same holds true for the internet media.

Resources (Law)

2015 score: 100 (2011 Score: 100)

To what extent does the legal framework provide an environment conducive to a diverse, independent media?

According to the 2011 NIS report, Georgian laws did not establish any significant barriers to the operation of a free media. Only broadcast media required licenses for operation, while the operation of print media was essentially exempt from any regulation.

An important change in regulations covering the operation of broadcast media occurred in 2012. Specifically, due to restrictions on access to TV channels that were critical of the authorities, such as Maestro TV, and the ensuing pressure from civil society and media representatives to lift those restrictions, Parliament adopted 'Must-Carry/Must-Offer' rules obliging cable operators to transmit all news and current affairs channels in the run-up to the 2012 parliamentary elections.⁴⁴⁹ This rule was made permanent in July 2013 so that it is not limited to pre-election periods only. As a result, citizens are now able to access all TV stations that were previously available in selected areas only.⁴⁵⁰ In another positive development, journalists were granted the right of video and audio recording in courtrooms under the legislative amendments passed in 2013.⁴⁵¹

Georgia will switch from analogue to digital terrestrial broadcasting by June 2015. This transition will require amendments to the law, meaning that the current licensing regime for TV stations will be abolished.⁴⁵² In addition, Georgia will have to introduce a new system of management of radio frequencies for broadcasting purposes. Given that these changes have not been introduced in the process of writing this report, it is not possible to estimate their impact at this stage.

Since all changes that have occurred since 2011 are positive, the indicator score of 100 remains unchanged.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

To what extent is there a diverse, independent media providing a variety of perspectives?

The 2011 NIS Assessment noted that Georgia had a large number of various media entities, although access to diverse TV content was problematic outside the capital. There was a significant gap between the central and the regional media in terms of their access to resources. Georgian media entities faced considerable financial challenges and those operating in the regions were unable to retain qualified staff. Application of licensing regulations in practice favoured pro-government TV stations which also benefited from tax amnesties, while those critical of the authorities had difficulties in terms of inclusion in cable networks.

Following the introduction of permanent 'Must-Carry' and 'Must-Offer' regulations, mentioned above, Georgian citizens have access to more diverse television content. However, the quality and

⁴⁴⁹ <http://civil.ge/eng/article.php?id=25069> (accessed on 20 March 2015)

⁴⁵⁰ The Law on Broadcasting, adopted on 23 December 2004, Article 40¹

⁴⁵¹ <http://www.media.ge/en/portal/news/300552/> (accessed on 20 March 2015)

⁴⁵² <http://transparency.ge/en/blog/introducing-digital-terrestrial-tv-georgia-everything-you-need-know-about-government-s-switchover> (accessed on 20 March 2015)

financing of media outlets remains a problem.⁴⁵³ This is especially true for regional media. For instance, in 2013, regional TV stations accounted only for 4 per cent of the country's total television revenues. Due to such a low income, they are not able to employ a sufficient number of qualified staff.⁴⁵⁴ Furthermore, there is a gap in the pay rates between print and broadcast media journalists, as well as between regional media journalists and those employed in the capital. In general, the wages for pay-for-print journalists are uneven.⁴⁵⁵

Broadcasters will also face challenges due to upcoming transition to digital broadcasting which is likely to require an upgrade of some of their technology. This is again particularly true for regional stations.⁴⁵⁶ Another challenge is to create a competitive digital television network and ensure that all citizens have free access to TV stations. The Georgian government will need to assist socially vulnerable people to fund set-top boxes that are necessary to receive digital signal.⁴⁵⁷

There have been no improvements in terms of resources of newspapers and journals in Georgia. In order to decrease publication costs, many journals switched to monthly publications instead of weekly. Moreover, no new newspapers have been launched while some of the old ones were closed down, which shows that this sector is not developing.⁴⁵⁸ At the same time, public usage of the Internet remains low outside the capital. For instance, 63 per cent of the respondents interviewed by the Caucasus Research Resource Centers (CRRRC) in rural areas reported that they have never used the Internet.⁴⁵⁹

Overall, despite some improvements (such as the access to more diverse broadcasts), the situation is largely the same as in 2011, so the indicator score remains unchanged.

Independence (Law)

2015 score: 75 (2011 Score: 75)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

The 2011 NIS Assessment noted that Georgia's legal framework contained 'extensive safeguards' against undue interference in the work of the media. The Constitution, the Law on Freedom of Speech and Expression and the Criminal Code protected freedom of speech, and there were legal provisions guaranteeing editorial independence and access to public information. The provisions on libel were very favourable for journalists. At the same time, shortcomings of the licensing law, including the fact that licenses covered programming content along with the purely technical aspects of broadcasting, had the potential to undermine the media's independence, while the rules for the formation of the Georgian Public Broadcaster's Board allowed for partisan influence over the Board.

⁴⁵³ TI Georgia's interview with Tamar Khorbaladze, Media Development Fund, 29 May 2014

⁴⁵⁴ <http://transparency.ge/en/post/report/report-who-owns-regional-media> (accessed on 20 March 2015)

⁴⁵⁵ IREX, *Media Sustainability Index 2014*, 154

⁴⁵⁶ <https://idfi.ge/en/migration-of-local-broadcasters-to-digital-transmission-platform> (accessed on 20 March 2015)

⁴⁵⁷ <https://idfi.ge/public/migrated/uploadedFiles/files/IDFI%20%20state%20policy%20on%20subsidizing%20DSO.pdf> (accessed on 20 March 2014)

⁴⁵⁸ TI Georgia's interview with Maia Tsiklauri, editor of media.ge, 28 May 2014

⁴⁵⁹ <http://transparency.ge/en/blog/half-georgian-population-remain-net-off> (accessed on 20 March 2015)

Following Georgia's digital switchover in 2015, the current licensing regime will be abolished for TV stations and it will cease to be a barrier for them to enter the television market.⁴⁶⁰ Meanwhile, in mid-2013, the Georgian Law on Broadcasting was amended to strengthen the independence of the Board of the GPB by introducing more pluralistic rules for the selection of its members, such as the quota system whereby the parliamentary majority and minority, the Public Defender, and the Supreme Council of the Autonomous Republic of Ajaria can all nominate a certain number of candidates for board membership. Under the new amendments, parliamentary majority and minority can both nominate three members in the nine-member Board, while the Public Defender can nominate two members and the Supreme Council of Adjara, a legislative body of Adjara Autonomous Republic, one member.⁴⁶¹ One of the major achievements stemming from this change was to transform Adjara TV, a local government owned TV channel, into the Adjara Public Broadcaster.⁴⁶²

On a negative note, the process of restructuring the GPB Board was undermined by serious problems stemming from political wrangling between the parliamentary majority and minority. The former voted for amendments to dissolve the Board established during the UNM rule and to accelerate the formation of the new Board. The members of the dissolved Board appealed this decision to the Constitutional Court and won their case against the Parliament.⁴⁶³⁴⁶⁴ This led to a new legal amendment to introduce a two-level Board with the old Board exercising monitoring functions vis-a-vis the new board on a temporary basis.⁴⁶⁵

The changes in the rules for the appointment of the GPB board are an important step forward. However, the indicator score remains unchanged because of the continuing confusion over the legal framework described in the last paragraph.

Independence (Practice)

2015 score: 50 (2011 Score: 25)

To what extent is the media free from unwarranted external interference in its work in practice?

According to the 2011 NIS report, the print media, radio stations, news agencies and some TV stations generally operated without government interference. However, the government had established control over the country's most influential TV stations through their acquisition by friendly businessmen, resulting in widespread self-censorship. There were also concerns regarding the government's influence over the Georgian National Communications Commission (GNCC).

⁴⁶⁰ <http://transparency.ge/en/blog/introducing-digital-terrestrial-tv-georgia-everything-you-need-know-about-government-s-switchover> (accessed on 15 March 2015)

⁴⁶¹ Law of Georgia on Broadcasting, article 24 (1) (2)

⁴⁶² TI Georgia's interview with Tamar Kordzaia, Member of the Parliament, 30 May 2014

⁴⁶³ <http://transparency.ge/en/blog/georgian-public-broadcaster-new-court-cases-exacerbate-board-crisis> (accessed on 20 March 2015)

⁴⁶⁴ <http://civil.ge/eng/article.php?id=27194> (accessed on 20 March 2015)

⁴⁶⁵ The Law on Broadcasting, Article 2¹

Prior to the 2012 Parliamentary elections, the Georgian media was polarized and biased in favour of various political groups.⁴⁶⁶ The situation has improved since then. For example, the media monitoring conducted in the run-up to the 2013 Presidential elections found that the media was less biased compared to the pre-2012 election period.⁴⁶⁷ The same monitoring conducted in the run-up to the 2014 local self-governance elections also revealed positive trends in the coverage of broadcasting, print and online media.⁴⁶⁸

At the same time, none of the major media outlets that have news and current affairs coverage are directly or indirectly controlled, financed or owned by the government or the ruling party. Most notably, shortly after the 2012 parliamentary elections, Georgia's second largest TV station (Imedi TV) was returned to its previous owner — the family of deceased businessman Badri Patarkatsishvili who founded it in 2003. The station had been seized by associates of the former President Mikheil Saakashvili in 2007.⁴⁶⁹ In addition, TV9, a TV station of the family of the former Prime Minister Bidzina Ivanishvili was closed down before the 2013 Presidential elections.⁴⁷⁰ The IREX Media Sustainability Index increased Georgia's score for "free speech" from 2.07 in 2011 to 2.92 in 2014, while the score for plurality of news sources grew from 1.85 to 2.77. The report noted that "[t]he advertising market and distribution channels have been de-monopolized, state control over editorial policy has loosened, and media professionals are participating increasingly in the decision-making process."⁴⁷¹

On the negative side, there are still some worrying cases indicating persistent attempts to interfere with journalists work. For example, a regional journalist in the town of Akhaltsikhe was reportedly subjected to pressure by Internal Affairs Ministry representatives in December 2014.⁴⁷² Earlier, the Georgian Public Broadcaster's decision to cancel two political talk shows was perceived as politically motivated by some observers.⁴⁷³ Mass departure of journalists from private TV station Maestro in late 2014 also raised concerns over possible government interference and infringements on editorial independence.⁴⁷⁴

Finally, although there have been no reported cases of censorship from the Georgian Dream-led government, on several occasions the government representatives publicly criticized journalists for their critical reports which might lead to self-censorship of the media in general.⁴⁷⁵ In May 2013, a deputy minister of internal affairs was sacked and later charged for publishing a sex video featuring a journalist.⁴⁷⁶

Overall, the situation has improved since 2011, so the indicator score has increased from 25 in 2011 to 50 in 2015.

⁴⁶⁶ OSCE/ODHIR, *Georgia: Parliamentary Elections 2012*, 17-20

⁴⁶⁷ [http://mediamonitor.ge/files/undp-\(eng\)%20\(4\).pdf](http://mediamonitor.ge/files/undp-(eng)%20(4).pdf) (accessed on 20 March 2015)

⁴⁶⁸ <http://www.media.ge/ge/portal/news/303067/> (accessed on 20 March 2015)

⁴⁶⁹ <http://civil.ge/eng/article.php?id=25370> (accessed on 20 March 2015)

⁴⁷⁰ <http://www.civil.ge/eng/article.php?id=26373> (accessed on 20 March 2015)

⁴⁷¹ http://www.irex.org/sites/default/files/u105/EE_MSI_2014_Georgia.pdf (accessed on 10 November 2014)

⁴⁷² <http://www.netgazeti.ge/GE/105/News/39429/> (accessed on 20 March 2015)

⁴⁷³ http://www.irex.org/sites/default/files/u105/EE_MSI_2014_Georgia.pdf (accessed on 10 November 2014)

⁴⁷⁴ <http://transparency.ge/en/node/4938> (accessed on 20 March 2015)

⁴⁷⁵ Khorbaladze, op cit

⁴⁷⁶ <http://www.tabula.ge/ge/story/71121-premieris-brdzanebit-xvedelidze-tanamdebobidan-14-maiss-gatavisuflda> (accessed on 20 March 2015)

Transparency (Law)

2015 score: 100 (2011 Score: 100)

To what extent are there provisions to ensure transparency in the activities of the media?

According to the 2011 NIS report, Georgian legislation contained a number of important safeguards designed to ensure transparent operation of media entities, including the provision requiring broadcasters to file annual reports about their ownership and management. The amendments to the Law on Broadcasting passed by Parliament in April 2011 improved transparency of broadcast media ownership by banning ownership of broadcast licenses by offshore companies. Broadcast license owners were required to report to the GNCC regularly on their ownership structure and financing.

The legal framework regarding the transparency of TV stations has been further improved since 2011. Specifically, under the 2013 July amendment, the broadcasters have a new obligation to report on all sources of their revenues.⁴⁷⁷ However, no such requirement was introduced for print or online media.

Since the only change that occurred after 2011 was positive, the indicator score of 100 remains unchanged.

Transparency (Practice)

2015 score: 50 (2011 Score: 25)

To what extent is there transparency in the media in practice?

The 2011 NIS report noted that Georgia's media landscape lacked transparency in several key areas, including ownership of TV stations (since the legislative amendments regarding ownership disclosure had not come into force at the time of the report's publication). There was, in particular, confusion over the actual ownership of the country's biggest two TV stations, as well as the subsidies that they were allegedly receiving from the government and government-friendly businesses.

Since the 2011 legal amendments, all TV stations with broadcasting licenses have been publishing the information about their owners on the GNCC's webpage.⁴⁷⁸ However, while there was another positive change in law, in 2013, to require broadcasters to also publish the information about their revenues, the implementation of this latter requirement has become a real challenge. The issue concerns the special financial reporting forms that GNCC prepared for TV stations to fill out. Some TV stations raised their concerns about these forms being an additional burden for them that might hamper fair competition on the media market. They asked for the abolition of the aforementioned forms and appealed to the court. This dispute has not yet been resolved at the time of writing of this report.⁴⁷⁹

⁴⁷⁷ The Law on Broadcasting, Article 70 (4)

⁴⁷⁸ http://gncc.ge/index.php?lang_id=ENG&sec_id=50051 (accessed on 20 March 2015)

⁴⁷⁹ http://www.gncc.ge/index.php?lang_id=GEO&sec_id=110&info_id=115230 (accessed on 20 March 2015)

Because of the positive changes in terms of ownership and financing transparency, the indicator score has increased from 25 in 2011 to 50 in 2015.

Accountability (Law)

2015 score: 75 (2011 Score: 75)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

The 2011 NIS Assessment noted that there were extensive accountability regulations for broadcast media, including the requirements to report regularly to the GNCC and to set up self-regulation mechanisms. Appeals over the violation of license terms by a broadcaster could be filed either with the regulatory body or with a court. At the same time, no similar provisions were in place for other types of media.

While the broadcasters in Georgia continue to have robust accountability mechanisms, such as the binding Code of Conduct of Broadcasters based on which they then develop their own self-regulation systems, other types of media, such as print and online media, have no such binding internal mechanisms in place.⁴⁸⁰ The latter can voluntarily sign the Charter of Journalistic Ethics, which is only a declaratory document listing the general standards of journalistic activities.⁴⁸¹ The Charter has been accepting complaints against non-member journalists as well since December 2013.⁴⁸²

The situation is thus largely the same as it was in 2011, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 25 (2011 Score: 25)

To what extent can media outlets be held accountable in practice?

The 2011 NIS report noted that the weakness of regulatory and self-regulation mechanisms had created gaps in terms of media accountability in practice. Specifically, the effectiveness of GNCC as a regulator was undermined by its political bias and lack of independence from the government, resulting in a situation where it did not enforce broadcast regulations consistently and did not sanction TV stations for violations, especially during election campaigns. Media entities had also failed to set up proper self-regulation mechanisms.

Since 2011, there have been instances of irresponsible coverage on the part of a number of media outlets, especially those representing the print and online media.⁴⁸³ Specifically, some Georgian newspapers such as *Asaval-Dasavali* have frequently violated ethical norms by using offensive

⁴⁸⁰ http://www.gncc.ge/index.php?lang_id=GEO&sec_id=110&info_id=6986 (accessed on 20 March 2015)

⁴⁸¹ http://qartia.org.ge/en/?page_id=2672 (accessed on 20 March 2015)

⁴⁸² <http://www.media.ge/en/portal/news/301840/> (accessed on 20 March 2015)

⁴⁸³ <http://www.media.ge/ge/portal/news/303067/> (accessed on 20 March 2015)

language as well as questionable sources of information.⁴⁸⁴ Another notable example was the coverage of the new anti-discrimination law in Georgia, which was superficial and focused on sexuality aspects only.⁴⁸⁵ The GNCC's remains ineffective in ensuring media accountability. For example, the OSCE/ODIHR noted in its report on the 2013 presidential election that the commission "took a passive approach in overseeing the media during the election campaign, which limited transparency and effectiveness."⁴⁸⁶

The situation is largely the same as it was in 2011, so the indicator score remains unchanged.

Integrity (Law)

2015 score: 50 (2011 score: 50)

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

The 2011 NIS report noted that the rules designed to ensure integrity of the Georgian media only covered broadcast entities and did not extend to other types of media. The GNCC had adopted a code of conduct for broadcasters which contained both legally binding rules and recommendations covering a broad range of issues concerning professional ethics. However, there was no general code of ethics for printed media and very few newspapers had similar codes of their own.

The situation has not changed since 2011. A binding Code of Conduct of Broadcasters which serves as the basis for internal self-regulation systems within the TV stations remains the only mechanism of integrity of broadcast media. For other types of media, the non-binding Charter of Journalistic Ethics is the only body with recommendatory functions that can simply react on cases of breaches of journalistic standards in the country. However, since the Charter is designed for individual journalists rather than media entities, it is difficult to assess its reach and impact.

Overall, the situation is very similar to what it was in 2011, so the indicator score remains unchanged.

Integrity (Practice)

2015 score: 25 (2011 score: 25)

To what extent is the integrity of media employees ensured in practice?

According to the 2011 NIS report, Georgia had 'considerable problems' in terms of ensuring integrity of the media in practice. The report noted that, as a result of the deep polarization and partisanship of the Georgian media, editorial pressure, and lack of resources and qualified staff, journalists often resorted to biased and inaccurate reporting at the expense of professional standards.

⁴⁸⁴ [http://mediamonitor.ge/files/undp-\(eng\)%20\(4\).pdf](http://mediamonitor.ge/files/undp-(eng)%20(4).pdf) (accessed on 20 March 2015)

⁴⁸⁵ Kordzaia, op cit

⁴⁸⁶ OSCE/ODIHR, *Georgia: Presidential Election 27 October 2013*, 15.

Media polarization has decreased following the 2012 parliamentary elections, as has state or political control over media outlets.⁴⁸⁷ However, the level of professionalism of journalists, especially those working for online and print media outlets, remains low. While being prone to sensationalism, some of these journalists frequently use hate speech and show careless attitudes that are left unchallenged.⁴⁸⁸ At the same time, “despite the unfavourable effect that it can have on the quality of media products, media outlets are trying to reduce expenses by not employing individual journalists for each beat”, a practice of so called niche journalism that is in need of development in Georgia.⁴⁸⁹

The indicator remains unchanged as the situation is largely the same as in 2011.

Role: Investigate and Expose Corruption (Practice)

2015 score: 50 (2011 score: 25)

To what extent is the media active and successful in investigating and exposing cases of corruption?

The 2011 NIS report noted that, while the print media and several independent studios had engaged in investigative reporting, the country’s most influential media entities (TV stations with nationwide audiences) were not airing any programs of this type because of the government’s influence over them. As a result, the Georgian media was not performing well in terms of investigating and exposing cases of corruption.

As in 2011, Studio Monitor, a small investigative media outlet, is periodically producing short investigative films aired by Maestro TV. In an important positive development, Rustavi-2 (Georgia’s leading private TV station) launched investigative programme Ganskhvavebuli Aktsentebi in 2014.⁴⁹⁰ A number of print/online media are also devoting considerable attention to alleged cases of corruption and conflict of interest in government. These include Netgazeti, Batumelebi, Tabula, and Guria News.⁴⁹¹

Overall, this field in general still remains underdeveloped in Georgia. This is due to the fact that Georgian viewers prefer to watch infotainment content and large media outlets therefore choose to invest little resources in investigative journalism that is not likely to bring profits to them.⁴⁹²

Because of the positive developments described above, the indicator score has increased from 25 in 2011 to 50 in 2015.

⁴⁸⁷ <http://transparency.ge/en/post/report/media-ahead-2014-municipal-elections> (accessed on 20 March 2015)

⁴⁸⁸ IREX, *Media Sustainability Index 2014: Georgia*, 152-153

⁴⁸⁹ *Ibid.*, 154

⁴⁹⁰ <http://rustavi2.com/ka/shows/%E1%83%90%E1%83%A5%E1%83%AA%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98> (accessed on 20 March 2015)

⁴⁹¹ See, for example: <http://www.netgazeti.ge/GE/105/News/41809/>; <http://www.netgazeti.ge/GE/105/News/28852/>; <http://www.batumelebi.ge/GE/batumelebi/news/30567/>; <http://www.tabula.ge/topic/%E1%83%99%E1%83%9D%E1%83%A0%E1%83%A3%E1%83%A4%E1%83%AA%E1%83%98%E1%83%90> (accessed on 20 March 2015)

⁴⁹² *Ibid.*

Role: Inform Public on Corruption and Its Impact (Practice)

2015 score: 50 (2011 score: 25)

To what extent is the media active and successful in informing the public of corruption and its impact on the country?

In 2011, the Georgian media was not performing well in terms of informing the public about corruption and its impact. The main TV stations did not have programs devoted to corruption.

As noted in the section above, there has been a notable increase in the coverage of corruption by the Georgian media. At least one leading TV station now has a dedicated investigative program and a number of print/online media outlets publish stories on corruption frequently. On the negative side, there still a general lack of analytical content on corruption.

Still, the positive changes justify an increase of the indicate score from 25 in 2011 to 50 in 2015.

Role: Inform Public on Governance Issues (Practice)

2015 score: 75 (2011 score: 25)

To what extent is the media active and successful in informing the public of the activities of the government and other governance actors?

The 2011 NIS report noted that the ability of the Georgian media to inform the public about the activities of the government and other political actors in a balanced manner was often undermined by the lack of independence, partisanship, polarization, and editorial censorship. The news programs of the most influential TV stations were nearly identical as they refrained from airing content reports of the government.

Following the change of power in 2012 and the lifting of political pressure on large TV stations, there has been an increase in plurality of coverage, as well as an increase in competition among media outlets in general. For instance, all six popular TV channels in Georgia, including GPB, Rustavi 2, Imedi, Maestro, Kavkasia, and Tabula have been regularly airing news programs and talk shows.⁴⁹³ This in turn has contributed to the balanced media coverage of political events, such as the 2013 presidential elections, and providing public with a diverse range of perspectives on governance issues.⁴⁹⁴

Because of these improvements, the indicator score has increased from 25 in 2011 to 75 in 2015.

⁴⁹³ <http://transparency.ge/en/post/report/media-ahead-2014-municipal-elections> (accessed on 20 March 2015)

⁴⁹⁴ IREX, *Media Sustainability Index 2014: Georgia*, 154

Civil Society

Summary

Georgian civil society has been both more active and more successful in terms of holding the government accountable and engaging in advocacy for policy reform since 2011. However, the country's CSOs continue to face challenges in terms of resources and their funding is not diversified. The problems in terms of transparency, accountability, and integrity of CSOs highlighted in the last NIS assessment have not been addressed. Georgian CSOs are generally independent in their activities but the government's and the ruling party's leaders have launched occasional verbal attacks on nongovernmental organizations and the authorities have failed to prevent violence against the CSOs working on LGBT rights.

Civil Society Overall Pillar Score: 53/100 (2011: 40/100)			
Dimension	Indicator	Law	Practice
Capacity: 63/100 (2011: 63/100)	Resources	75 (2011: 75)	25 (2011: 25)
	Independence	100 (2011: 75)	50 (2011: 75)
Governance: 33/100 (2011: 33/100)	Transparency		50 (2011: 50)
	Accountability		25 (2011: 25)
	Integrity	25 (2011: 25)	
Role: 63/100 (2011: 25/100)	Role (hold government accountable)		50 (2011: 25)
	Role (policy reform)		75 (2011: 25)
Law and practice average		67 (2011: 58)	43 (2011: 40)

Structure and Organisation

There are some 10,000 registered CSOs in Georgia, although fewer than one in ten are active. CSOs fall under the category of "non-commercial legal entities", although the law also provides for the operation of unregistered unions. Registration is managed by the Public Registry under the Ministry of Justice, while registration for charity status is managed by the Ministry of Finance. Most grants from foreign donors are exempt from taxation, although CSOs pay taxes on salaries at the same rate as businesses - 20 per cent. The largest and most active organisations are concentrated in Tbilisi, while the strength of CSOs in the regions is far weaker.

Resources (Law)

2015 score: 75 (2011 Score: 75)

To what extent does the legal framework provide a conducive environment for civil society?

The 2011 NIS report noted that the legal framework did not establish any significant obstacles to the operation of CSOs as the registration rules were simple and CSOs could also opt to operate without registration. At the same time, there were insufficient incentives for philanthropy and charity in the law.

Generally, there were no major legislative changes that would significantly alter operation of CSOs. In 2011, legislation enabling the Ministries to give out grants to CSOs in the amount of GEL 5,000-15,000 (USD 2,288-6,865) was enacted.⁴⁹⁵ However, the provision did not grant a similar right to the local self-governments, which put regional CSOs at considerable disadvantage. Importantly, the practice was used only on limited occasions, and did not manage to gain popularity among the public.⁴⁹⁶

A 2013 change in the tax code granted CSOs an exemption from taxes when issuing gifts that are less than GEL 1000 (USD 457).⁴⁹⁷ Such a change is a positive step towards improvement of the legal framework for CSOs. Nevertheless, legislation which could stimulate donations of businesses to CSOs is still non-existent, while donations to volunteer programs are subject to taxation.⁴⁹⁸

Generally, the legal framework is similar to what it was in 2011, so the indicator score remains unchanged.

Resources (Practice)

2015 score: 25 (2011 Score: 25)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

According to the 2011 NIS report, Georgian CSOs lacked diverse sources of funding and relied almost exclusively on foreign donor assistance. There was a considerable gap between regional CSOs and those based in the capital in terms of their access to funding and human resources, and many CSOs could not retain and train professional staff because of inadequate funding.

CSOs continue to rely largely on international donor assistance. According to USAID CSO Sustainability Index Survey, Georgian CSOs “remain largely donor-driven, with no clear prospects for financial or institutional sustainability. Local sources of income remain limited.”⁴⁹⁹ Along with the shortage in terms of financial resources, the CSOs face insufficient levels of professionalism. Due to financial constraints, many professionals working in regional CSOs move to the capital, which depletes intellectual resources in the regions.⁵⁰⁰ A number of initiatives have been undertaken to

⁴⁹⁵ https://matsne.gov.ge/index.php?option=com_idmssearch&view=docView&id=1498915 (accessed on 15 September 2014)

⁴⁹⁶ TI Georgia’s interview with Vakhtang Natsvlashvili, the Coordinator of Local Democracy Development Program at OSGF, 2 May 2014

⁴⁹⁷ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia, 17th Edition – June 2014*, 81

⁴⁹⁸ TI Georgia’s interview with Zaal Anjaparidze, Senior Program Manager at Eurasia Partnership Foundation, 8 May 2014

⁴⁹⁹ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, 80

⁵⁰⁰ TI Georgia’s Interview with Vazha Salamadze, Director of Civil Society Institute, 6 May 2014

address the problem. For example, the Civil Society Institute is preparing online courses in research methodology, advocacy and lobbying, public financing, and political analysis, which, based on the results of the focus groups conducted by the organization, are of high demand in the regions. While the trainings are supported by the EU, USAID has a separate program of USD 5 million to support CSOs in terms of improved feedback to citizens, organizational development, policy development, and support to USAID's civic engagement centres.⁵⁰¹

On the whole, the situation is essentially the same as in 2011, so the indicator score remains unchanged.

Independence (Law)

2015 score: 100 (2011 Score: 75)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

The 2011 NIS Assessment concluded that the legal framework offered sufficient protection to CSOs against unwarranted intervention in their activities. The Constitution guaranteed the right of citizens to form associations, and CSOs could operate free of state control or the threat of arbitrary dissolution. At the same time, the constitutional right to privacy did not extend to CSOs.

Legislation ensuring independence of CSOs remains strong. Importantly, even though the Law on Protection of Personal Data only refers to individual citizens, the Constitutional Court has recently made a decision that the right to privacy should extend to CSOs. Based on the decision, CSOs can freely exercise their right to privacy and file complaints to the Court in case of violation.⁵⁰²⁵⁰³

Based on this positive development, the indicator score has increased from 75 in 2011 to 100 in 2015.

Independence (Practice)

2015 score: 50 (2011 Score: 75)

To what extent can civil society exist and function without undue external interference?

The 2011 NIS report noted that Georgian CSOs were generally able to operate without undue interference by the authorities as cases of direct government pressure, such as suspension of CSOs or arrest of CSO activists, were extremely uncommon. At the same time, there had been cases of intimidation and violence against NGO observers during elections and the authorities had failed to investigate those cases properly.

The level of independence of CSOs generally remains high and the environment is conducive to their free operation but there have been negative developments. A statement by the Prime Minister

⁵⁰¹ TI Georgia's interview with Ketii Bakradze, Senior Civil Society and Media Advisor, USAID Office of Democracy and Governance, 7 May 2014

⁵⁰² Decision of the Constitutional Court of Georgia #519, 24 October 2012

⁵⁰³ Natsvlishvili, op cit

responding to “This Affects You Too” campaign and accusing CSOs of an attempt to undermine the state can be considered as an attempt to intimidate CSOs.⁵⁰⁴ In January 2015, former Prime Minister Bidzina Ivanishvili, who is widely believed to have remained an informal decision-maker in the government, launched a verbal attack on Georgia’s leading CSOs and promised to examine the activities of their leaders.⁵⁰⁶

Civil society groups working to protect LGBT rights have become targets of harassment. The most serious incident of this type occurred on 17 May 2013 when a rally to mark the International Day Against Homophobia and Transphobia was dispersed violently by a counter-rally organized by radical religious groups and the authorities failed to prevent this violence.⁵⁰⁷ Some of the newly formed non-governmental organizations have targeted the main opposition party with an aggressive campaign, which could point to the government’s attempts to establish GONGOS.⁵⁰⁸

Because of these negative developments, the indicator score has decreased from 75 in 2011 to 50 in 2015.

Transparency (Practice)

2015 score: 50 (2011 Score: 50)

To what extent is there transparency in CSOs?

The 2011 NIS Assessment concluded that the general level of transparency of Georgian CSOs was inadequate since only a small minority of CSOs made important information about their activities and funding available to the general public on a regular basis. The country’s leading CSOs operated in a transparent manner but the majority did not.

The overall tendency with regards to transparency has not changed significantly since 2011. The civil society sector is still suffering from the lack of transparency as CSOs are reluctant to publish their narrative and financial reports and other information due to the limited number of activities, or lack of interest of the public in the reports.⁵⁰⁹⁵¹⁰ Those CSOs that actually publish annual reports do so mainly due to donors’ requirements for transparency.⁵¹¹ Nevertheless, according to an expert

⁵⁰⁴ <http://www.tabula.ge/ge/story/82743-gharibashvili-es-shen-gexeba-isev-gvismenen-dzirgamomtxreli-saqmianobaa> (accessed on 20 March 2015)

⁵⁰⁵ Natsvlashvili, op cit

⁵⁰⁶ <http://emc.org.ge/2015/02/02/%E1%83%90%E1%83%A0%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%97%E1%83%90%E1%83%95%E1%83%A0%E1%83%9D%E1%83%91%E1%83%9D-%E1%83%9D%E1%83%A0%E1%83%92%E1%83%90%E1%83%9C%E1%83%98%E1%83%96%E1%83%90-17/> (accessed on 20 March 2015)

⁵⁰⁷ <http://ombudsman.ge/uploads/other/1/1934.pdf> (accessed on 20 March 2015)

⁵⁰⁸ <http://www.tabula.ge/ge/story/88635-enm-is-ofistan-tavisufali-taoba-nacionaluri-modzraobis-akrdzalvas-itxovs> (accessed on 20 March 2015)

⁵⁰⁹ Anjaparidze, op cit

⁵¹⁰ Bakradze, op cit

⁵¹¹ *Ibid.*

interviewee, there are around twenty to thirty NGOs that put efforts to ensure transparency and regularly publish important information regarding their activities.⁵¹²

Overall, the situation is essentially the same as in 2011, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 25 (2011 Score: 25)

To what extent are CSOs answerable to their constituencies?

The 2011 NIS report noted that Georgian CSOs were generally insufficiently accountable to those they claimed to represent due to weak membership structures and inconsistent internal governance systems. The only effective accountability mechanisms were those established by international donors.

CSOs continue to face problems with regards to accountability. The main problem in terms of the accountability of CSOs is a gap between the organizations and the segments of society that they represent. There are no feedback mechanisms in place, which would enable CSOs to communicate with the society in an effective manner.⁵¹³ Moreover, due to the priorities of the donors, the scope of CSO work rarely covers some issues that are important for the public such as labor rights, environmental issues, and cultural heritage, which decreases their legitimacy in the eyes of their constituencies.⁵¹⁴

Additionally, due to the lack of culture of civic activism, the number of membership-based CSOs is very small. One of the reasons for such a low membership turnout is that the public does not see the importance of participating in constructive policy-making by being engaged with a civil society organization.⁵¹⁵

As the situation has not changed significantly since 2011, the indicator score remains the same.

Integrity (Law and Practice)

2015 score: 25 (2011 score: 25)

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?

The 2011 NIS report concluded that there were few means for ensuring integrity in Georgian CSOs because of a lack of a sector-wide code of conduct or other self-regulatory mechanisms.

There is still no-sector wide code of conduct for CSOs. According to the CSO Sustainability Index survey, “there is a consensus among experts and CSOs that the sector needs functional self-

⁵¹² Salamadze, op cit

⁵¹³ Salamadze, op cit

⁵¹⁴ Natsvlshvili, op cit

⁵¹⁵ Bakradze, op cit

regulation mechanisms and nationally shared standards for professional ethics more than ever.”⁵¹⁶ Opinion polls have produced mixed evidence regarding the public image of CSOs. In the 2013 Caucasus Barometer survey, only 2 per cent of the respondents said that they “fully trust” NGOs, while 21 per cent said that they “somewhat trust” them.⁵¹⁷ However, in the 2013 Global Corruption Barometer, only 13 per cent of the respondents said that Georgian NGOs were corrupt or extremely corrupt, which was substantially lower than the similar figure for all public institutions except for the military.⁵¹⁸

Overall, as there have been no significant changes in terms of CSO integrity since 2011, the indicator score remains the same.

Role: Hold Government Accountable (Practice)

2015 score: 50 (2011 score: 25)

To what extent is civil society active and successful in holding government accountable for its actions?

The 2011 NIS Assessment noted that, while there were many CSOs in Georgia that monitored the government’s activities, their ability to hold the government accountable was limited both because of the civil society’s internal weaknesses (such as the lack of resources and of a strong link to the general public) and because of external factors (a political system characterized by a high level of concentration of power).

CSOs are becoming more influential in terms of holding the government accountable. Since 2011, leading CSOs have deployed large-scale election observation missions⁵¹⁹ and conducted monitoring in important areas of public administration, including public procurement,⁵²⁰ assets of public officials,⁵²¹ campaign finance,⁵²² and connections between politicians and private companies.⁵²³

On the negative side, the challenges in terms of the access to resources continue to threaten the ability of Georgian CSOs to monitor the government’s activities in a sustainable manner. The hostile statements by the government’s and the ruling party’s leaders against the country’s top CSOs (discussed in the section on independence) also contribute to an unfavourable environment for CSO monitoring of government activities.

⁵¹⁶ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, 87

⁵¹⁷ <http://caucasusbarometer.org/en/cb2013ge/TRUNGOS/> (accessed on 20 March 2015)

⁵¹⁸ <http://www.transparency.org/gcb2013/country/?country=georgia> (accessed on 20 March 2015)

⁵¹⁹ See, for example: <http://www.isfed.ge/main/330/eng/>; <http://www.isfed.ge/main/525/eng/>; <http://gyla.ge/eng/news?info=2182> (accessed on 20 March 2015)

⁵²⁰ See, for example: <http://gyla.ge/eng/news?info=1777> (accessed on 20 March 2015)

⁵²¹ See, for example: <https://idfi.ge/ge/misconducts-linked-with-the-asset%20declarations-of-senior-officials> (accessed on 20 March 2015)

⁵²² See, for example: <http://transparency.ge/en/post/report/new-report-assesses-financial-transparency-and-accountability-political-parties-2013> (accessed on 20 March 2015)

⁵²³ See, for example: http://transparency.ge/sites/default/files/post_attachments/Businessmen%20in%20Politics%20and%20Politicians%20in%20Business,%20Problem%20of%20Revolving%20Door%20in%20Georgia.pdf (accessed on 20 March 2015)

Because of the positive developments described above, the indicator score has increased from 25 in 2011 to 50 in 2015.

Role: Policy Reform (Practice)

2015 score: 75 (2011 score: 25)

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

According to the 2011 NIS report, Georgia had a number of CSOs that worked actively and continuously on corruption-related issues. However, their ability to participate in the formulation of government policies (including anti-corruption policies) was undermined by limited resources. Moreover, the political environment, where a single political party had overwhelming control of political institutions, made it easy for government to ignore CSO recommendations.

The ability of Georgian CSOs to advocate for policy changes has improved considerably. Since 2011 CSOs were successful in lobbying for a few policy initiatives.⁵²⁴ According to Freedom House, Georgian CSOs “seemed reenergized by the run-up to the 2012 parliamentary elections and played a critical role in securing legislative changes that improved the fairness of the campaigns”.⁵²⁵ The CSO campaign for the introduction of “Must-Carry” rules in the legislation on broadcasting resulted in improved access of voters to diverse news programs before the elections and CSOs were also involved in the drafting of a new local government law in 2013.⁵²⁶ Other successful advocacy campaigns covered issues related to elections, justice, media, and other spheres.⁵²⁷ In 2013-2014, This Affects You, a campaign aiming to improve the regulations on the use of secret surveillance by law enforcement bodies, resulted in the discussion of legislative amendments in Parliament.⁵²⁸

Currently, CSOs have the ability to work with the government through various platforms including collaborating with the Anti-Corruption Council on drafting anti-corruption strategy, as well as participating in Open Government Partnership initiatives. However, even though a framework for collaboration is conducive, the impact is relatively insignificant considering the limited mandate of the Anti-Corruption Council. Reforms are needed in terms of increasing independence and resources of the Council.⁵²⁹ Other instances of collaboration between the government and the CSOs include active engagement of CSOs in discussions on the reform of the local self-government election held in 2013.⁵³⁰ Another issue which affects the ability of CSOs to influence policy reform is the competence and profile of CSOs. While watchdog NGOs are successful at holding the government accountable, only few Think Tanks get regularly engaged in the policy-making process.⁵³¹

⁵²⁴ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, 84

⁵²⁵ <https://freedomhouse.org/report/nations-transit/2014/georgia#.VF46lYeXRUQ> (accessed on 20 March 2015)

⁵²⁶ *Ibid.*

⁵²⁷ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, 84

⁵²⁸ *Ibid.*

⁵²⁹ *Ibid.*

⁵³⁰ USAID, *The 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, 84

⁵³¹ Bakradze, op cit

On the whole, there has been a notable improvement in the ability of Georgian CSOs to contribute to policy reform, so the indicator score has increased from 25 in 2011 to 75 in 2015.

Business

Summary

There have been few changes in Georgia's business sector since the 2011 NIS report. The legal framework remains mostly business-friendly and businesses have become relatively more independent in practice as there have been fewer instances of undue government interference in their activities since 2011. There are still significant problems in terms of transparency and accountability of companies, including the lack of effective mechanisms for identifying their beneficial owners. Effective integrity programs and measures remain an exception in Georgia's business entities. The private sector does not participate actively in the government's anti-corruption policy and there is little collaboration between the private sector and the civil society.

Business Overall Pillar Score: 53/100 2011: 50/100			
Dimension	Indicator	Law	Practice
Capacity: 75/100 (2011: 68/100)	Resources	75 (2011: 75)	50 (2011: 50)
	Independence	100 (2011: 100)	75 (2011: 50)
Governance: 58/100 (2011: 58/100)	Transparency	100 (2011: 100)	50 (2011: 50)
	Accountability	50 (2011: 50)	50 (2011: 50)
	Integrity	50 (2011: 50)	50 (2011: 50)
Role: 25/100 (2011: 25/100)	Anti-corruption policy engagement	25 (2011: 25)	
	Support for/engagement with civil society	25 (2011: 25)	
Law and practice average		61 (2011: 61)	46 (2011: 43)

Structure and Organisation

Since 2004, the Georgian government has pursued a policy of deregulation and reduction of administrative barriers to business. Consequently, the legal provisions governing the activities of commercial enterprises have been amended substantially and some new laws have been passed. The main legal provisions governing the operation of businesses in Georgia are given in the Law on Entrepreneurs, the Tax Code, the Civil Code. A large number of other laws also govern business activities.

Resources (Law)

2015 score: 75 (2011 Score: 75)

To what extent does the legal framework offer an enabling environment for the formation and operation of individual businesses?

According to the 2011 NIS report, Georgia had a business-friendly legal framework, resulting in the country's strong performance in the World Bank's *Doing Business* ranking. The legal framework established simple procedures for starting and closing a business, property registration and obtaining permits. Property rights were protected by the Constitution, while the Civic Code also safeguarded intellectual property. Georgia's legislation was assessed less positively in terms of the procedures for contract enforcement and dispute settlement.

The legal framework in terms of starting and closing business, as well as property registration has largely remained unchanged. In 2014, the country ranked 4th in the World Bank Ease of Doing Business report in terms of ease of starting a business and now this process requires two steps compared to three in 2011. Georgia simplified business start-up by eliminating the requirement to visit a bank to pay the registration fees. Now entrepreneurs pay the registration fee and register the company at the Entrepreneurial Register, and then open a bank account to start a business.⁵³² Moreover, since 2011, Georgia also facilitated access to credit by amending its civil code and broadening the range of assets that can be used as collateral, and by allowing a security interest to include products, proceeds, and replacement of collateral.⁵³³

Additionally, Georgia made steps forward in contract enforcement by simplifying the procedures for commercial disputes. While the cost and the time for procedures remains the same as prior to 2011, the number of procedures for contract enforcement was reduced from 36 to 33, which is slightly above the OECD average of 31 procedures.⁵³⁴ Correspondingly, the ranking of the country has changed from 130 to 122.⁵³⁵ As for Resolving Insolvency, in 2013, Georgia expedited the process of resolving insolvency by establishing tightened time limits for all insolvency-related procedures, including auctions.⁵³⁶

On the negative side, two legislative changes have weakened the business environment, one of them being a change to the Law on Ownership of Agricultural Land which restricts the ownership of agricultural land by foreign citizens.⁵³⁷ The amendment suspended Article 4 point "b", which allowed for the ownership of agricultural land by the foreign citizens until 31 December 2014. Even though the Constitutional Court ruled the regulation as unconstitutional following TI Georgia's initiative to appeal the right of a foreign citizen to own an agricultural piece of land, the Court ruling only concerned the right of natural persons, and not of the entities.⁵³⁸ Therefore, the restriction on land ownership for companies owned by foreign citizens remains a serious obstacle for the business sector.

Another legislative change that might have affected the business environment negatively are amendments to the Law on Legal Status of Foreigners, which complicated visa and residence permit issuing procedures, as well as reduced the number of days that a foreign citizen can stay in Georgia

⁵³² World Bank, *Doing Business 2014, Economy Profile: Georgia*, 19

⁵³³ *Ibid.*, 44

⁵³⁴ *Ibid.*, 82

⁵³⁵ <http://www.doingbusiness.org/Custom-Query/georgia> (accessed on 20 March 2015)

⁵³⁶ World Bank, *2014*, 90

⁵³⁷ The Law on the Ownership of the Agricultural Land, adopted 22 March 1996, Article 22 (3)

⁵³⁸ The Decision of the Constitutional Court N1/2/563, 24 June 2014

for from 360 days to 90 over the period of 180 days.⁵³⁹ According to an expert interviewee, these amendments significantly worsened situation for foreign citizens, and might have negatively affected already existing businesses run by non-Georgian citizens, as well as the prospect for new enterprises.⁵⁴⁰

Overall, there have been both positive and negative changes since 2011, so the indicator score remains the same.

Resources (Practice)

2015 score: 50 (2011 Score: 50)

To what extent are individual businesses able in practice to form and operate effectively?

According to the 2011 NIS report, registration of businesses was simple in practice and the regulatory burden was small. However, property rights were not protected sufficiently as the government occasionally seized private property, especially in the areas designated for the development of tourist infrastructure.

In 2014, Georgia's economy was the 22nd freest in the world according to Heritage Foundation - it was the country's best performance ever.⁵⁴¹ Georgia also improved its ranking in the Global Competitiveness Index and moved up from 88th in 2011 to 69th in 2014.⁵⁴² In terms of protection of property rights, even though Georgia has improved its rankings from being 120th in 2011 to 85th out of 144 countries in the World Economic Forums's Global Competitiveness Report 2014-2015,⁵⁴³ the country still scores low for property rights in the Heritage Foundation's Index of Economic Freedom, having 40 points out of 100, which puts it in 70th place, well below its overall ranking.⁵⁴⁴

An expert interviewee noted the progress in terms of the protection of property rights, stating that the new government elected in 2012 has not resorted to illegal seizing of property.⁵⁴⁵ However, there is a deterioration in terms of property registration with the public registry. According to the interviewee, both foreign and Georgian citizens experience significant delays when registering land within the public registry and face difficulties with real estate and mortgage transactions.⁵⁴⁶

Overall, because of mixed evidence since 2011, the indicator score remains unchanged.

⁵³⁹ The Law on Legal Status of Foreigners and Persons Without Citizenship,, adopted on 5 March 2014, Article 6 (7,8)

⁵⁴⁰ TI Georgia's Correspondence with Irina Guruli, Program Manager, and Nino Evgenidze, Executive Director of Economic Policy Research Center, 4 December 2014

⁵⁴¹ <http://www.heritage.org/index/pdf/2014/countries/georgia.pdf> (accessed on 20 March 2015)

⁵⁴² http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

⁵⁴³ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

⁵⁴⁴ <http://www.heritage.org/index/pdf/2014/countries/georgia.pdf> (accessed on 20 March 2015)

⁵⁴⁵ TI Georgia's Correspondence with Ted Jonas, Partner at DLA Piper Georgia LP, 5 December 2014

⁵⁴⁶ *Ibid.*

Independence (Law)

2015 score: 100 (2011 Score: 100)

To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?

The 2011 NIS report noted that the Georgian legal framework did not contain any provisions that would permit excessive state interference in business activities. Private companies were entitled to receive compensation for damages incurred as a result of unlawful actions of state bodies. Inspection of businesses by government agencies was regulated by the law and was subject to judicial oversight, while judicial authorization was also required for any non-routine tax inspections. The office of Tax Ombudsman had been established in order to protect taxpayers' rights.

There have been no changes to the legal framework guaranteeing independence of the business sector. Private companies still retain the right to receive compensation in case of unlawful actions on behalf of the government,⁵⁴⁷ while the Tax Ombudsman retains the powers for the protection of taxpayers.⁵⁴⁸

The indicator score therefore remains unchanged.

Independence (Practice)

2015 score: 75 (2011 Score: 50)

To what extent is the business sector free from unwarranted external interference in its work in practice?

The 2011 NIS report concluded that the legal provisions designed to safeguard the independence of business in Georgia were not always applied effectively in practice. The lack of an independent judiciary was identified as the main reason for this. The virtual lack of corporate donations to opposition parties during election campaigns (against the background of ample donations to the ruling party) was identified as a possible sign of fear of the authorities among the business community, while owners of a number of independent media outlets had claimed that the authorities had dissuaded companies from placing their commercials there. Treatment of businesses by tax authorities was "harsh" and companies enjoyed little protection from the judiciary. There were allegations that the government had been involved indirectly in the change of ownership in a number of large private enterprises and had influence the outcome through its control of the tax authorities and the judiciary.

An improvement in the level of independence of the judiciary since 2011 has influenced the conditions for business positively. Global Competitiveness Report ranks Georgia 65th in terms of judicial independence compared to 104th in 2011.⁵⁴⁹ An expert interviewee stressed that, since 2011, the handling of business-related cases in court has improved. As for the state's influence over

⁵⁴⁷ The Constitution of Georgia, Article 42 (9)

⁵⁴⁸ The Tax Code of Georgia, adopted on 17 September 2010, Article 42

⁵⁴⁹ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

the business sector, the practice of government intervention in business' operation, such as unlawful seizing of property and politically motivated changes of ownership of companies, is no longer present.⁵⁵⁰

There are still concerns concerning possible abuse of power by tax authorities. In February 2014 Investigation Service of the Ministry of Finance launched an inspection in the country's leading communications company, Geocell, over alleged tax evasion. The case raised fears that the inspection could have been politically motivated since Geocell had been involved in an initiative to introduce amendments to the law that would impose restrictions on the use of wiretapping by law enforcement agencies.⁵⁵¹ Similar fears arose over the tax inspection at TV MR GE, an independent company measuring the ratings of different TV stations and their programs.⁵⁵² The US Department of Commerce still warns investors that "laws and regulations, especially in the area of tax and customs, can be subject to arbitrary and uneven interpretation and enforcement by government employees and courts."⁵⁵³ The donations gap between the ruling party and the opposition remains significant.⁵⁵⁴

Overall, despite the remaining problems, the progress that has been made since 2011 merits an increase of the indicator score from 50 to 75.

Transparency (Law)

2015 score: 100 (2011 Score: 100)

To what extent are there provisions to ensure transparency in the activities of the business sector?

According to the 2011 NIS report, the legal framework contained robust provisions on business transparency. Information on business registration was public and anyone had the right to obtain it from the relevant public agency. Annual audit was required for certain types of enterprises, while the National Bank exercised oversight over the financial sector. Georgia had a special law against money laundering and the Financial Monitoring Service was established to combat money laundering and financing of terrorism. Further transparency provisions were in place for the companies trading on the stock market. Georgian businesses (except for small enterprises) were required by the law to follow the International Financial Reporting Standards adopted by the International Accounting Standards Board.

The only significant legislative change altering transparency of the business sector is the amendment to the Law on Legalisation of Illicit Income which entails transferring the Financial Monitoring Service from the National Bank to the Ministry of Finance.⁵⁵⁵ According to expert interviewees at the Economic Policy Research Centre, this development is a step back as it might pose a threat to independence of the Financial Monitoring Service by being under supervision of the entity in the

⁵⁵⁰ Jonas, *op.cit.*

⁵⁵¹ <http://www.tabula.ge/ge/story/80211> (accessed on 20 March 2015)

⁵⁵² <http://transparency.ge/en/node/4004> (accessed on 20 March 2015)

⁵⁵³ <http://photos.state.gov/libraries/georgia/749756/zavrashviliex/2013-CCG-Georgia.pdf> (accessed on 20 March 2015)

⁵⁵⁴ TI Georgia, *Georgian Political Party Finances in 2013*, 14.

⁵⁵⁵ The Law on Facilitating Prevention of Legalisation of Illicit Income, 13 June 2003, Article 2

executive branch.⁵⁵⁶ Similar concern was raised by another expert interviewee, who emphasized that the oversight of the Financial Monitoring Service is a sensitive issue, and making it accountable to the ministry rather than maintaining its independent status was a negative development.⁵⁵⁷

Still, the legal framework is largely the same as in 2011, so the indicator score remains unchanged.

Transparency (Practice)

2015 score: 50 (2011 Score: 50)

To what extent is there transparency in the business sector in practice?

The 2011 NIS report noted that, while company registration data was available to the public and banks and other relevant entities reported to the National Bank as required by the law, there was a lack of transparency regarding the ownership of some companies operating in Georgia, especially those registered in offshore locations. Ownership transparency was also a problem in some of the formerly state-owned large enterprises that had been privatized in previous years. Big businesses, especially banks, did have informative websites but important types of information (e.g. ownership structure) was often missing. Overall, only 30 per cent of Georgian businesses had websites. Georgia's results in the Global Competitiveness Report also highlighted problems in terms of financial audit and reporting standards.

The quality of financial auditing and reporting standards for the private sector has improved to being 85th in the Global Competitiveness Report, compared to 92nd in 2011.⁵⁵⁸ However, experts maintain that there is no improvement in terms of transparency of the business sector, and companies continue to ignore the importance of publishing additional information. According to the interviewees, lack of transparency influences the interest of foreign investors to invest in Georgia companies negatively.⁵⁵⁹ There are also still no effective mechanisms for establishing the identity of ultimate beneficial owners of companies in Georgia.⁵⁶⁰

The situation is largely the same as in 2011, so the indicator score remains unchanged.

Accountability (Law)

2015 score: 50 (2011 Score: 50)

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?

The 2011 NIS report noted that Georgia's legal framework for corporate governance had improved considerably in the preceding years but a number of regulations remained weak. Partners had

⁵⁵⁶ Guruli, Evgenidze, *op.cit.*

⁵⁵⁷ Jonas, *op.cit.*

⁵⁵⁸ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

⁵⁵⁹ Guruli, Evgenidze, *op.cit.*

⁵⁶⁰ OECD ACN, 2013, 105

guaranteed access to different types of information about the activities of their companies. Any decision outside a company's routine operations required a meeting of partners.⁵⁶¹ Partners in some types of enterprises had the right to inspect the books and other documents, while the owners of a stock of at least 5 per cent in a joint-stock enterprise could request an inspection if they suspected irregularities.⁵⁶² Banks and large companies were required to have supervisory boards and their directors were obliged to report to those boards annually.⁵⁶³ The law on lobbying was ineffective in practice.

Legislation pertaining to accountability of the business sector, including the law on lobbying has largely remained the same.⁵⁶⁴ There have been no amendments made to the corporate governance regulations that would increase accountability of the businesses, except for one change to the regulations on banking.⁵⁶⁵ In 2014, the National Bank of Georgia made a decision to ban non-banking activity among the banks.⁵⁶⁶ The experts interviewed commended the change, noting that, if implemented effectively, it would increase the level of accountability of banks.⁵⁶⁷

Overall, the situation is the same as in 2011, so the indicator score remains unchanged.

Accountability (Practice)

2015 score: 50 (2011 Score: 50)

To what extent is there effective corporate governance in companies in practice?

The 2011 NIS report noted that the application of corporate governance rules by Georgian business entities in practice had improved in the preceding years, although some significant weaknesses remained. An IFC survey had highlighted improvements in Georgian companies but had also noted the need for further progress in terms of the effectiveness of supervisory boards, internal controls, information disclosure and shareholder rights. No public agency monitored the application of corporate governance laws in practice and the problems of corporate governance were reflected in Georgia's results in the Global Competitiveness Report.

Georgia shows some improvement in rankings worldwide. In the 2014-2015 Global Competitiveness Report, the efficacy of corporate boards earned Georgia 101th place out of 144 compared to 109 out of 136 countries in 2011, and there is also a progress in terms of protection of minority shareholders' interests, with Georgia being 110th out of 144 compared to 122nd out of 136 in 2011.⁵⁶⁸ However, aside from the rankings, expert interviewees maintain that there has not been a significant progress with regards to the improved corporate governance.⁵⁶⁹

⁵⁶¹ The Law on Entrepreneurs, 28 October 1994, Article 9(1)

⁵⁶² *Ibid.*, Article 53

⁵⁶³ *Ibid.*, Articles 55-57

⁵⁶⁴ The Law on Lobbyist Activities, 30 September 1998

⁵⁶⁵ Guruli, Evgenidze, *op. cit.*

⁵⁶⁶ <https://www.nbg.gov.ge/statement> (accessed on 20 March 2015)

⁵⁶⁷ Guruli, Evgenidze, *op.cit.*

⁵⁶⁸ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

⁵⁶⁹ Guruli, Evgenidze, *op.cit.*

An expert interviewee noted that, currently, private companies often do not see the importance of being accountable, because, in the majority of smaller businesses, shareholders also run the business. Therefore, they do not feel the need to follow corporate governance regulations. Nevertheless, the development of Georgian stock exchange and the increased number of companies that rely on investors will naturally create the need for more accountability and strict corporate governance regulations.⁵⁷⁰

Overall, the situation is largely the same as in 2011, so the indicator score remains unchanged.

Integrity (Law)

2015 score: 50 (2011 score: 50)

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

According to the 2011 NIS report, the legal framework contained adequate provisions regarding corrupt practices within and between enterprises and corporate liability, while also establishing some limited rules concerning conflict of interest in the private sector. Private sector bribery was a punishable offence under the Criminal Code which also established criminal liability of legal entities. The legal framework provided some integrity rules for company executives and there were mandatory integrity rules for the companies trading on the stock market. At the same time, there were no sector-wide codes of conduct and an IFC survey found that only 16 per cent of companies had internal codes of conduct regulating conflict of interest. The whistleblower protection law did not apply to private sector employees.

There has not been a significant improvement in terms of the integrity in the business sector. No sector-wide Code of Conduct for businesses has been adopted. Additionally, the Third Round of Monitoring Report on Georgia by the OECD Anti-Corruption Network for Eastern Europe and Central Asia stressed that the interviewed government officials consider the existing provisions on responsibility of the management of the companies for corrupt deeds insufficient.⁵⁷¹

Although there has been an overall improvement in the regulations regarding whistleblower protection, the legislation remains focused on public servants, and does not apply to the private sector employees.⁵⁷²

The situation is therefore essentially the same as in 2011, so the indicator score remains unchanged.

Integrity (Practice)

2015 score: 50 (2011 score: 50)

To what extent is the integrity of those working in the business sector ensured in practice?

⁵⁷⁰ Jonas, *op. cit.*

⁵⁷¹ OECD ACN, 2013, , 102

⁵⁷² The Law on Conflict of Interests and Corruption in Public Service, Chapter V

According to the 2011 NIS report, few of the existing business codes of ethics were applied in practice. An IFC survey had found that few of the company board members abstained from voting in the event of conflict of interest. Georgia's problems in the field of corporate ethics were also reflected in the country's Global Competitiveness Report rank. Private sector whistleblowers enjoyed little protection in practice and no black list of companies involved in corruption existed.

Some efforts have been made since 2011 to improve private sector integrity. The 2014-2015 Global Competitiveness Report's assessment of the ethical behavior of Georgian firms placed Georgia 54th out of 144 compared to 78th out of 139 in 2011.⁵⁷³ According to the OECD Anti-Corruption Network for Eastern Europe and Central Asia, some companies are introducing compliance programs in response to the requirements of foreign investors and international financial institutions, subsidiaries of international companies being most advanced in this respect.⁵⁷⁴ However, these still appear an exception from the general trend. Anti-Corruption mechanisms in state-owned enterprises remain weak.⁵⁷⁵

The situation is generally the same as in 2011, so the indicator score remains unchanged.

Role: Anti-Corruption Policy Engagement (Law and Practice)

2015 score: 25 (2011 score: 25)

To what extent is the business sector active in engaging the domestic government on anti-corruption?

The 2011 NIS report noted that Georgia's business sector did not participate actively in the government's anti-corruption policies and initiatives. There were no examples of companies or business associations participating in anti-corruption initiatives or making statements on the subject. The business community was not represented in the anti-corruption council -- the body responsible for the adoption and implementation of the National Anti-Corruption Strategy. While 24 Georgian companies had signed up to the UN Global Compact, their majority were designated as "non-communicating" members because of their failure to submit progress reports in a timely manner.

There has not been a significant improvement in terms of the engagement of business community in anti-corruption policy making, but some steps have been taken to make the business associations more active. Since 2011, the Anti-Corruption Council at the Ministry of Justice has reached out to business associations to include them in the meetings on anti-corruption strategy and initiatives.⁵⁷⁶ However, even though an attempt has been made, the representative of one of the business associations in Georgia stressed that the process was poorly administered, with lack of follow up, and no clear definition of the purpose and procedure for engagement of business sector representatives in anti-corruption policy making.⁵⁷⁷ The government, for its part, has not undertaken

⁵⁷³ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf (accessed on 20 March 2015)

⁵⁷⁴ OECD ACN, 2013, 100-101

⁵⁷⁵ OECD ACN, 2013, 102

⁵⁷⁶ Guruli, Evgenidze, *op. cit.*

⁵⁷⁷ Jonas, *op. cit.*

active efforts to promote business integrity.⁵⁷⁸ The UN Global Compact currently only lists five private sector participants from Georgia.⁵⁷⁹

The situation has not changed significantly since 2011, so the indicator score remains the same.

Role: Support for/Engagement with Civil Society (Law and Practice)

2015 score: 25 (2011 score: 25)

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?

The 2011 NIS report noted that the business community had not participated in the civil society's anti-corruption activities or sponsored such activities. The link between the civil society and the business community was weak and the former was financed almost exclusively by foreign donors.

The link between the two sectors remains weak. As one of the interviewees stressed, almost all of the funding of the civil society organizations comes from the foreign donors.⁵⁸⁰ Another expert interviewee also emphasized that no successful legislative changes have been made that would encourage businesses to donate to non-governmental organizations.⁵⁸¹ CSOs also appear to be disinterested in exploring alternative sources of funding, including corporate donations.⁵⁸² There have been no joint efforts by the private sector and civil society to combat corruption over the last three years.

Since no change has occurred since 2011, the indicator score remains the same.

⁵⁷⁸ OECD ACN, 2013, 101

⁵⁷⁹ https://www.unglobalcompact.org/participants/search?utf8=%E2%9C%93&commit=Search&keyword=&country%5B%5D=65&joined_after=&joined_before=&business_type=2§or_id=&listing_status_id=all&cop_status=all&organization_type_id=&commit=Search (accessed on 20 March 2015)

⁵⁸⁰ TI Georgia's Correspondence with Vazha Salamadze, Director of the Civil Society Institute, 6 May 2014

⁵⁸¹ TI Georgia's Correspondence with Zaal Anjaparidze, Senior Program Manager at Eurasia Partnership Foundation, 8 May 2014

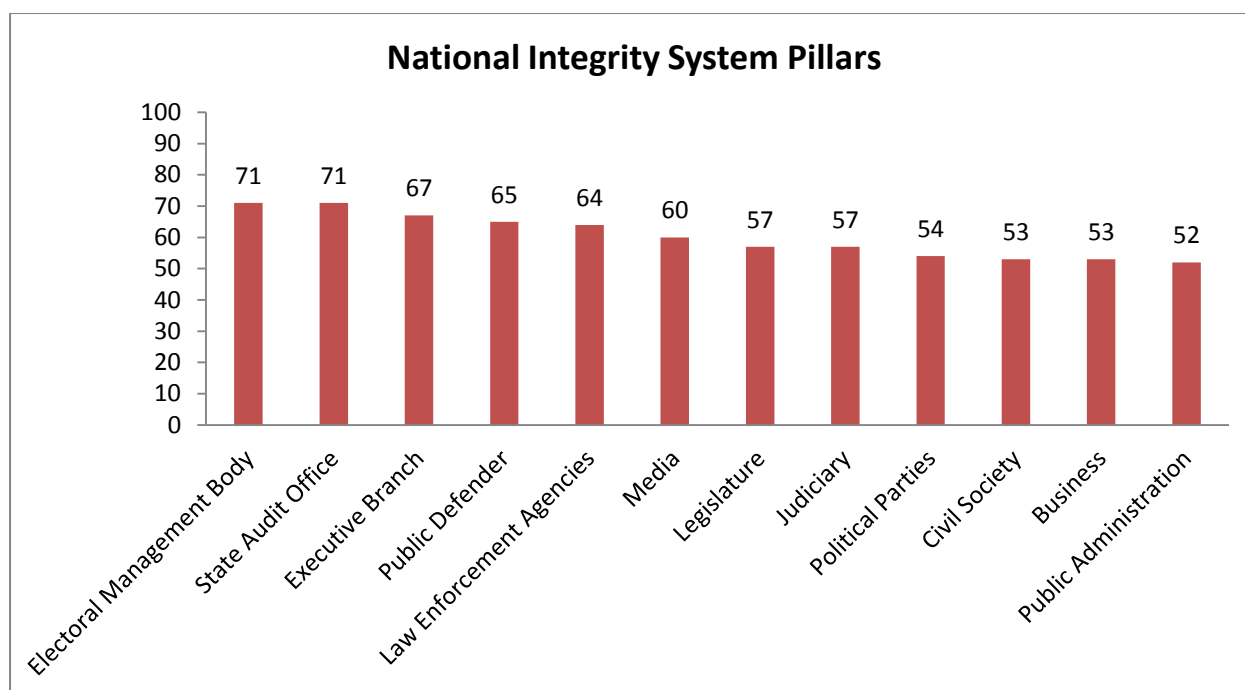
⁵⁸² <http://www.usaid.gov/sites/default/files/documents/1863/E%26E%202013%20CSOSI%20Final%2010-29-14.pdf> (accessed on 20 March 2015)

Conclusions and Recommendations

Georgia's National Integrity System in 2015

The chart below shows the state of Georgia's NIS pillars in 2015. The Electoral Management Body (EMB) and the State Audit Office (SAO) are currently the best-performing institutions of the system.

Georgia's NIS pillars in 2015

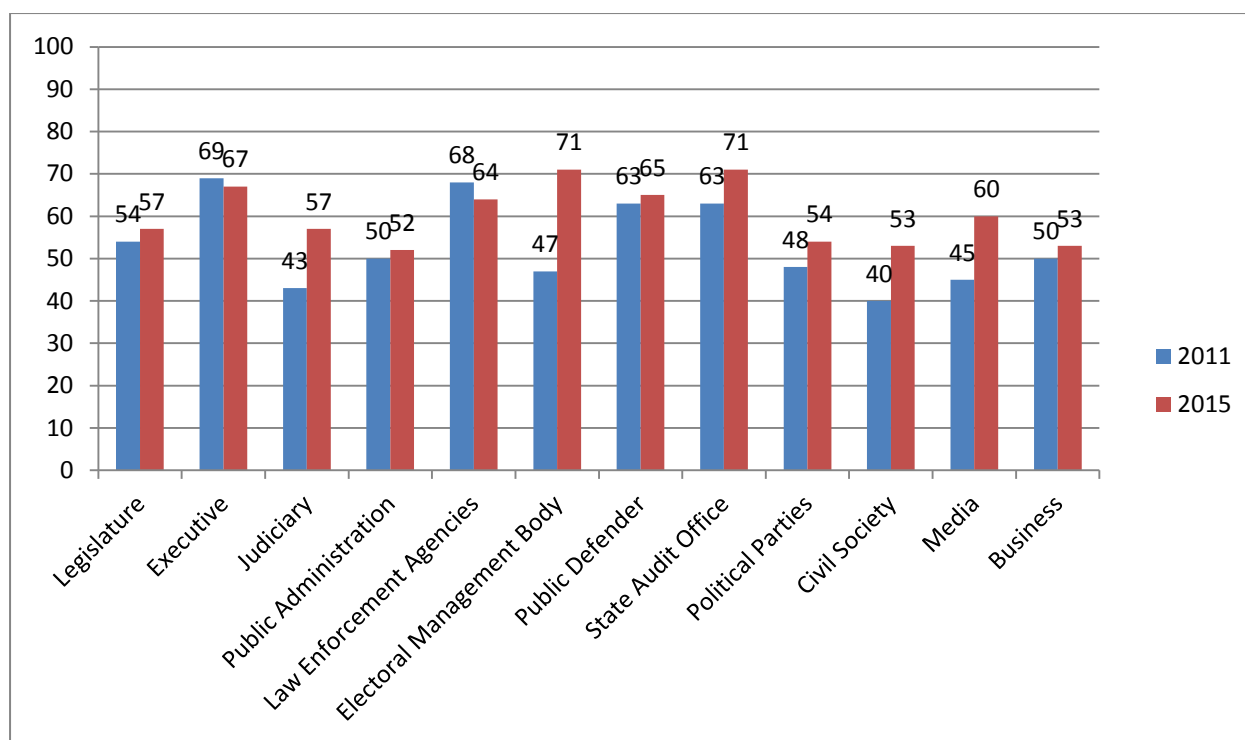


While the SAO also received a relatively high score in the previous NIS assessment, the EMB has achieved particularly impressive progress since the 2011 NIS study in which it was among the weakest institutions of the system.

The executive branch and the law enforcement agencies, which were the strongest institutions of the system in 2011, are the only two pillars whose aggregate score has decreased in the 2015 study. Meanwhile, although both the legislature and the judiciary have improved since 2011 (and the increase in the judiciary's overall score has been particularly significant), they still remain weak relative to the executive branch and the law enforcement agencies, pointing to the continuing problems in the system of horizontal accountability and checks and balances.

The civil society and the media are other NIS pillars that have improved considerably since 2011. Political parties, the public defender, and business have also improved, although the increases in their scores are relatively small, indicating that most of the problems in these institutions are yet to be addressed.

Georgia's NIS pillars in 2011 and 2015

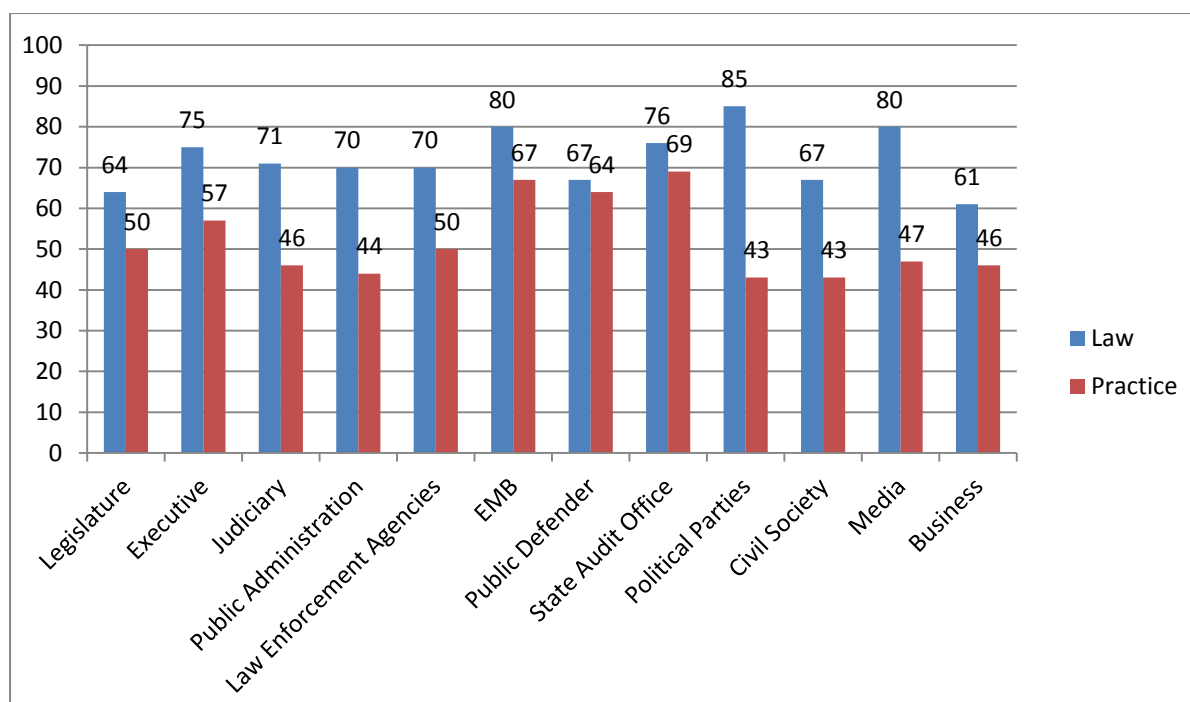


Law vs. Practice

Since the total pillar scores shown in the charts above are aggregate scores for law and practice, they could obscure important difference between formal rules and the actual practice of the NIS institutions. It is therefore also important to look at separate average scores for law and practice by pillar.

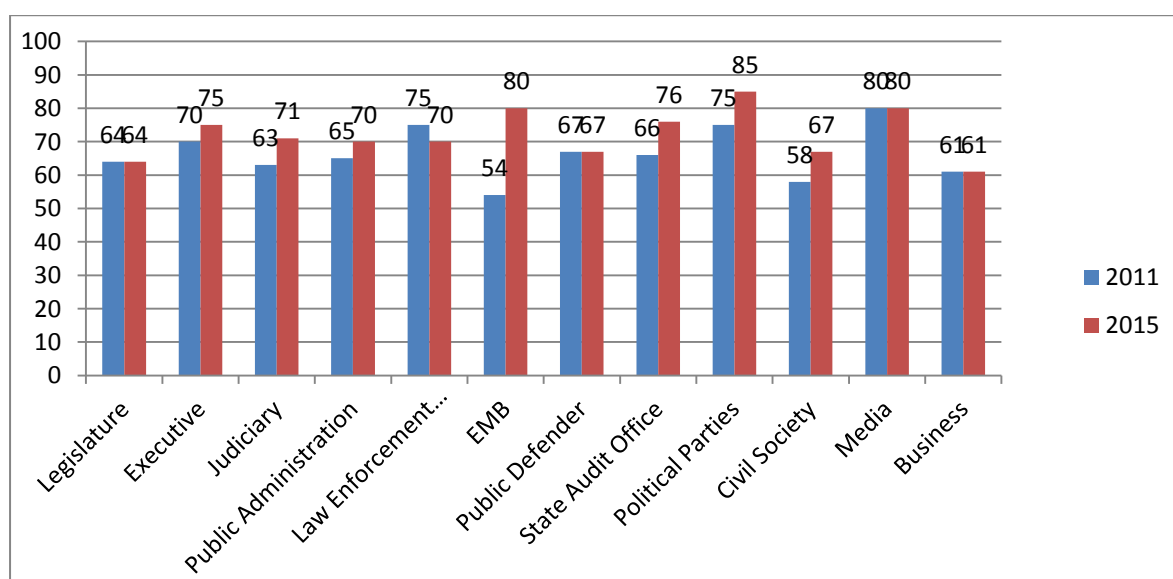
The chart below, which compares the average scores for the law indicators with those for the practice indicators, shows that significant discrepancies between the legal framework and the actual state of affairs remain in the majority of the Georgian NIS pillars. The average law score is higher than the average practice score in every one of the 12 institutions and the Public Defender is the only pillar where the difference is small. While the difference is significant in all other pillars, it is particularly big in the media and the political parties, which was also the case in 2011.

NIS pillars in 2015: law vs. practice



Looking at the changes in the average law scores by pillar, the electoral management body is the institution where the legal framework improved most significantly between 2011 and 2015. There were some improvements in the law for another five pillars, while the legal framework remained unchanged in the cases of the legislature, the Public Defender, the media and business. The law enforcement agencies are the only pillar where the legal framework actually deteriorated between 2011 and 2015.

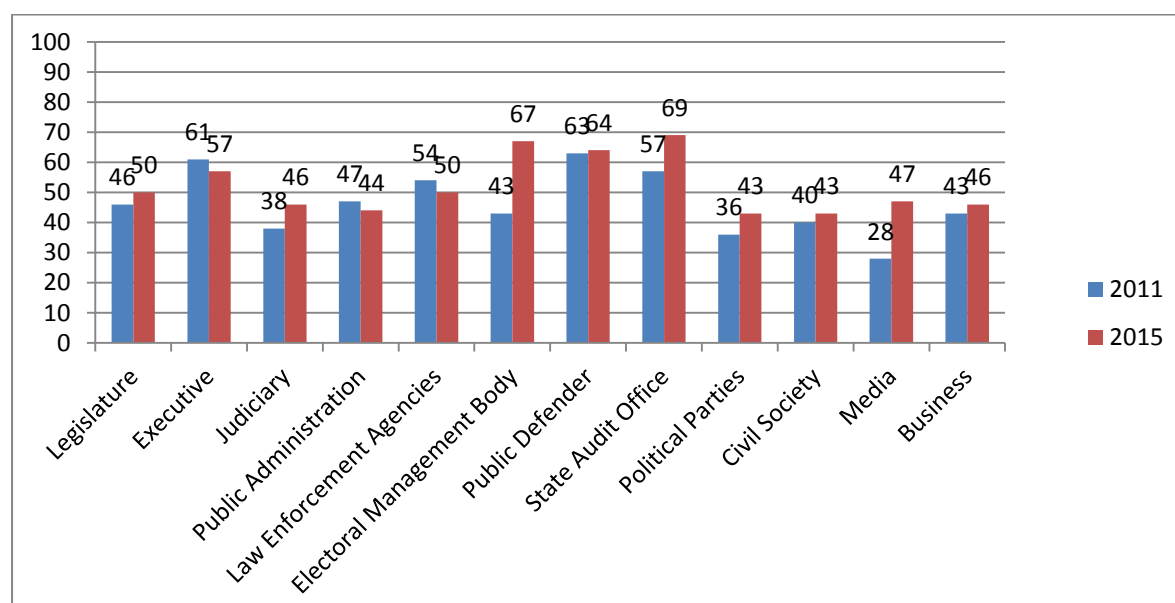
Law in 2011 vs. law in 2015



A similar chart comparing the average practice scores by pillar from the 2011 and the 2014 reports, once again, shows that the most significant change has occurred in the electoral management body.

Overall, all institutions except for the executive branch, the public administration and the law enforcement agencies got a higher average score for practice in 2015 compared with 2011.

Practice in 2011 vs. practice in 2015



The average law score for all pillars has increased from 66.5 to 72.1 between 2011 and 2015, while the average score for practice grew from 46.3 to 52.1, suggesting that the improvements have been distributed more or less evenly between the law and the practice indicators.

Interconnections Between Pillars

The NIS concept is founded on the idea that there is a strong link between the performance of different institutions. A weakness of one institution can lead to problems in another and, conversely, improvements in some pillars can have a positive spillover effect on others.

In the Georgian context, the level of the executive branch's accountability remains low because of underperforming legislature and judiciary. A relative increase in the independence of judiciary (and an improved performance of the State Audit Office) between 2011 and 2014 has resulted in an increase in the government's accountability but further progress in the legislature pillar is required in order to reach a high level of executive branch accountability. Meanwhile, the improvements in the judiciary have also had a positive effect on the independence of the business pillar.

A stronger electoral management body which is better able to administer the electoral process means a more level playing field for political parties, which can, in turn, lead to a more diverse and representative legislature. Greater independence in the media pillar can have a similar effect since access to the media is an important factor affecting the performance of parties during elections.

The fact that Georgia's civil society has become much more active and successful in promoting policy reform since 2011 is likely to have contributed to the improvements of the legal framework of a number of pillars, including the electoral management body (whose average law score improved by the biggest margin) since the country's leading CSOs were involved actively in the discussion of the relevant legislative changes.

Progress, Challenges, and Recommendations by Pillar

Below is a detailed list of positive changes, remaining problems and recommendations for each institution.

Pillar		Legislature
Key Improvements		• A more diverse composition and relatively more independent than in 2011 • Improvements in terms of transparency both in law and in practice
Main Challenges		• Parliament is still not independent enough to effectively oversee the executive branch in practice • Parliament's accountability to citizens is not guaranteed sufficiently either in law or in practice • Parliament continues to face problems in terms of human resources • Parliament does not prioritize anti-corruption and good governance legislation sufficiently • Ensuring integrity of Parliament members in practice remains problematic
Recommendations		• Parliament's powers in the process of adoption of the state budget should increase • Georgia should revise its system for parliamentary elections in order to ensure proportional representation and equality of vote • Parliament must adopt a more pro-active role in terms of executive branch oversight, while executive branch officials should respond to questions by Parliament members in a timely and comprehensive manner • Parliament must show greater commitment to anti-corruption policy and good governance by promptly addressing the key legislative gaps in these areas • Further improvements must be made in terms of public access to key information about the legislature's work (committee and plenary session agendas and minutes, draft laws, voting records) , as well as citizens' access to Parliament building • Code of ethics for MPs must be adopted and asset declarations of MPs should be reviewed for accuracy
Pillar		Executive Branch
Key Improvements		• Transparency of the executive branch has improved as a result of the adoption of provisions on pro-active publication of information

	• The accountability of the executive branch has improved relative to 2011 as a result of a more independent judiciary and stronger supreme audit institution
Main Challenges	• The independence of the executive branch has decreased significantly as a result of former prime minister's persistent informal influence over the cabinet • Accountability of the executive branch is still not guaranteed sufficiently in practice because of the weakness of Parliamentary oversight • Integrity safeguards are still inadequate and 'revolving door' remains a problem, while there is no verification mechanism for the asset declarations of executive branch officials • The executive branch has not demonstrated strong commitment to the establishment of a professional and independent civil service as indicated by its failure to reform the relevant legislation, as well as mass dismissals from public institutions after the transfer of power in 2012 and allegations of nepotism in recruitment
Recommendations	• Former prime minister's involvement in cabinet matters should end • Parliament must adopt a more pro-active role in terms of executive branch oversight, while executive branch officials should respond to questions by Parliament members in a timely and comprehensive manner • A mechanism should be established for the enforcement of the existing integrity rules in practice (possibly through the establishment of an independent anti-corruption agency), while the regulations on 'revolving door' should improve • The government must implement a reform of civil service through the adoption of a new law and by establishing rules that will ensure transparency and objectivity in recruitment, promotion, dismissal, and remuneration of civil servants

Pillar

Judiciary

Key Improvements	• The legal provisions on the judiciary's independence have improved through a greater role for judges in the formation of the High Council of Judges and judicial appointments • The judiciary is relatively more independent in practice than in 2011 (as demonstrated by a more pro-active role of judges vis-à-vis prosecutors in criminal cases and a substantial increase in the number of administrative disputes won by private parties against the state) and its performance in terms of holding the executive branch accountable has also improved accordingly • The judiciary's transparency has improved both in law and in practice as a result of the abolishment of the ban on courtroom recording and court session broadcasts and more pro-active publication of information on the Supreme Court's website
Main Challenges	• Insufficient number of judges, courtrooms, and staff continue to pose problems in terms of resources • Three-year probation period prior to lifetime appointment undermines the independence of judges in law • There are still problems in terms of the judiciary's independence in

	practice, including non-transparent assignment of cases to judges, especially in politically sensitive trials • Transparency is still not guaranteed sufficiently in practice, especially during politically sensitive trials • Accountability of the judiciary remains problematic in practice, primarily because of the continued failure of judges to provide proper reasoning for their decisions, as well as weak disciplinary procedures • The judiciary continues to face problems in terms of integrity in practice as demonstrated by its negative public image
Recommendations	• Additional resources must be allocated to the judiciary to ensure its effective operation • Three-year probation period for judges must be abolished • An electronic system for assigning cases to judges must be introduced • The judiciary must address its negative public image, inter alia, by excluding any reasons for suspicion of political influence on judges during politically sensitive trials and ensuring transparency of such trials • Judges must provide proper reasoning for their decisions and the disciplinary procedures must improve

Pillar	Public Administration
Key Improvements	• The legal provisions on the public administration have improved through the introduction of mandatory competitive recruitment and criminal liability for pressuring a civil servant to resign • A number of public sector agencies have introduced rules on pro-active publication of information and their general responsiveness to requests for public information has improved relative to 2011 • Internal audit units have been established in all key public sector agencies • A number of public sector agencies (including the Anti-Corruption Council) are collaborating with the civil society more actively than before • Public procurement contracts concluded without competitive bidding are now posted on the Internet
Main Challenges	• Lack of independence remains a problem in practice as demonstrated by mass dismissals of civil servants after the 2012 parliamentary and the 2014 local elections • There are signs of favouritism and nepotism in public sector recruitment and appointments • There are still no sector-wide rules on pro-active publication of information which prevents the establishment of uniform practice • There are serious shortcomings in the operation of internal audit units • The public sector remains generally passive in terms of public education on corruption • As a result of loopholes in the procurement law, a substantial portion of procurement still takes part outside the transparent electronic procurement platform
Recommendations	• Parliament and the executive branch must act promptly to implement a reform of civil service through the adoption of a new law and by establishing rules that will ensure transparency and objectivity in

	recruitment, promotion, dismissal, and remuneration of civil servants
	• General legal provisions on pro-active publication of information mandatory for all public sector agencies must be adopted • Resources must be directed toward improving the capacity of internal audit units • The Anti-Corruption Council must implement educational programmes on corruption • Exceptions to open bidding in the procurement law must be reduced

Pillar

Law Enforcement Agencies

Key Improvements

- In a positive development in terms of the law enforcement agencies' independence in law, the justice minister no longer has prosecutorial powers
- A police code of ethics was adopted
- Provisions on pro-active publication of information have been adopted

Main Challenges

- Some of the prosecutions against former government officials and the persistent instances of police interference in election campaigns indicate that the law enforcement agencies are still not independent from the country's political leadership in practice
- There is evidence of informal external influence on the law enforcement agencies, resulting in further reduction of their independence
- The law enforcement agencies do not operate transparently in practice and do not release sufficient amount of information either pro-actively or in response to requests
- Accountability of the law enforcement agencies is not guaranteed in practice as alleged offences committed by law enforcement officers are not investigated and sanctioned properly
- Political influence over the law enforcement agencies and the resulting selective application of justice continue to undermine their integrity in practice and their ability to investigate and prosecute high-level corruption

Recommendations

- Political interference in the operation of the law enforcement agencies and informal external influence on these agencies must end
- The procedure for the appointment of the chief prosecutor must improve
- The law enforcement agencies must pro-actively publish all relevant types of information and improve their responsiveness to requests to public information
- An independent mechanism must be established for the investigation of alleged offences committed by law enforcement officers
- Parliament must adopt proper legal restrictions on the use of wiretapping and other forms of secret surveillance by the law enforcement agencies, as well as enact new rules for the questioning of witnesses
- The Prosecutor's Office must appoint prosecutor's specializing on corruption cases

Pillar

State Audit Office

Key Improvements	• Relative improvement in terms of the SAO's independence in 2013 and 2014 • Improvement of the SAO's transparency through an increase in the amount of information published by the institution pro-actively • An increase in the quantity and the quality of the audits conducted by the SAO annually • Improvement in terms of the detection of spending irregularities in public agencies by the SAO • The SAO's stronger contribution to the improvement of financial management in the public sector through recommendations
Main Challenges	• Persisting challenges to the SAO's independence as demonstrated by its work before the 2012 parliamentary elections and some of the new parliamentary majority's actions vis-à-vis the SAO since 2012 • Continuing problems in terms of human resources
Recommendations	• The parliamentary majority should refrain from any actions that could undermine the SAO's independence • Resources must be directed toward further increasing the SAO's capacity • Public sector agencies should follow up on the SAO's recommendations

Pillar

Electoral Management Body

Key Improvements	• The EMB has become more independent and, unlike the previous reporting period, has not demonstrated notable political bias • The EMB operates in a highly transparent manner • The EMB's accountability in practice has increased as a result of improved complaints and appeals procedures • A code of conduct for electoral officials has been adopted • The quality of administration of elections by the EMB has improved overall
Main Challenges	• The composition of the EMB remains a factor that could potentially undermine its independence • There are still occasional instances of pressure on electoral officials • Complaints and appeals procedures are still problematic and the right of voters to file complaints remains limited to irregularities in voter lists • There are still problems in terms of the qualifications of commission members, especially at the precinct level, resulting in shortcomings in the process of vote count and tabulation
Recommendations	• Rules for the composition of the EMB should be revised in order to reduce the potential for a single party's or coalition's dominance • All possible cases of pressure on electoral officials should be investigated thoroughly • Complaints and appeals procedures must be streamlined further and the voters' rights in this regard should expand • Resources must be directed toward further training of electoral officials and only certified professionals should be appointed as commission members at all levels

Pillar		Public Defender
Key Improvements		- There has been a significant increase both in the funding and in the staff numbers of the Public Defender's office - The transparency of the Public Defender's office has increased further as a result of improvements both in its responsiveness to requests for information and in pro-active publication of information through its website - The accountability of the Public Defender's office has improved through the provision of more detailed information in the office's annual reports on its own activities
Main Challenges		- Despite the increase, the funding allocated to the Public Defender's office may still be insufficient - According to some sources, the recruitment process at the Public Defender's office is not completely transparent - The Public Defender's reports concerning alleged violations committed by law enforcement and penitentiary officers are not followed up properly by the law enforcement agencies
Recommendations		- The Government must ensure that the Public Defender's office receives sufficient funding for uninterrupted exercise of all its responsibilities - The Public Defender's office must ensure full transparency of its recruitment process - Parliament must hold the law enforcement agencies responsible for their failure to follow up on the Public Defender's reports - An independent mechanism must be established for the investigation of alleged offences committed by law enforcement officers
Pillar		Political Parties
Key Improvements		- The distribution of resources between the ruling party (coalition) and the opposition is more even than in the past - Transparency and accountability of political parties have improved both in law and in practice following the transfer of the party finance monitoring responsibility from the Central Electoral Commission to the State Audit Office
Main Challenges		- While smaller than before, a significant gap remains between the ruling party (coalition) and the opposition in terms of resources - Instances of pressure on opposition members and activists continue to undermine the independence of political parties in practice - Internal democratic procedures remain weak in Georgia's political parties - Political parties continue to underperform in terms of representation of wider social interests and devote insufficient attention to anti-corruption policy in their platforms
Recommendations		- The Georgian authorities must consider the possibility of introducing a campaign spending cap in order to ensure a more level playing field during elections - All alleged cases of pressure against opposition representatives must be investigated properly

- Georgian political parties must improve their internal democracy and strengthen their links with the wider public

Pillar	Media
Key Improvements	• Political influence on the country's main TV stations has decreased since 2011, resulting in a relatively more independent media which offers a more balanced and diverse coverage of politics and governance issues, as well as an improved coverage of corruption • The introduction of "must carry" rules has ensured the public's access to a more diverse media contents • Transparency of the media has improved following the introduction of ownership disclosure requirements
Main Challenges	• A number of prominent cases point to continuing attempts at external interference in journalists work • An on-going uncertainty over the composition of the Georgian Public Broadcaster's board could undermine the station's independence • There is still a significant resource gap between the national and the regional as well as between the broadcast and the print media • General levels of media accountability and transparency remain low because of a lack or weak enforcement of codes of ethics • Overall, despite improvements in this area, the media continues to underperform in terms of exposing corruption through investigative journalism
Recommendations	• The Government and all political actors must respect professional independence of journalists • All alleged cases of pressure on journalists must be investigated thoroughly • A compromise must be reached over the composition of the Georgian Public Broadcaster's board that will ensure diverse representation and minimize political influence • Media entities must develop mechanisms of self-regulation, inter alia, by adopting and implementing codes of ethics • The Georgian Public Broadcaster must devote resources to investigative programmes, while donor organizations must also aid the development of investigative journalism

Pillar	Civil Society
Key Improvements	• The civil society has become significantly more successful in holding the government accountable and promoting policy reform, implementing a number of high-profile advocacy campaigns
Main Challenges	• The government's and the ruling party's top officials have made a number of aggressive statements against the country's leading CSOs which could constitute an attempt to influence their work • Georgian CSOs continue to depend almost entirely on foreign donors for their funding and a significant resource gap remains between the

	organizations based in the capital and those operating in the regions • Transparency and accountability levels remain low in the sector as a whole since only a minority of CSOs publish information about their financing and activities regularly, while the link between the CSOs and the wider public remains weak • Integrity of CSOs is not guaranteed sufficiently in practice due to a lack of codes of conduct • CSOs working to protect LGBT rights have been targets of harassment and violence
Recommendations	• Georgian CSOs must explore alternative sources of funding, including membership fees, service provision, and collaboration with the private sector • Development of a membership system would also help the CSOs improve their link with the general public • CSOs must disclose all key types of information about their financing and activities regularly • CSOs must develop individual or sector-wide codes of conduct • Government officials must refrain from hostile statements against CSOs • All instances of harassment and violence against CSOs must be investigated properly

Pillar	Business
Key Improvements	• The business sector appears to be more independent than in 2011 as there have been fewer instances of undue government interference in its operations in recent years • Private companies enjoy more protection as a result of a relatively more independent judiciary than in 2011
Main Challenges	• Several cases of alleged politically motivated tax inspections in private companies point to continuing problems in terms of business independence • Transparency of the business sector remains low, inter alia, because of a lack of mechanisms for establishing the identity of beneficial owners of companies • Accountability remains low throughout the business sector because of the weakness of corporate governance procedures • Integrity safeguards remain weak, among other things, because whistle-blower protection law does not extend to private companies • The business sector continues to underperform in terms of its engagement in anti-corruption policy and collaboration with the civil society
Recommendations	• Legal provisions concerning the disclosure of beneficial ownership must improve • Private sector companies should devote more attention to internal integrity rules and programmes • The government must involve the private sector more actively in its anti-corruption initiatives

