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**A grúz modernizációs modell**

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**SZÁZADVÉG**  
ALLOTTVÁNY



**SZÁZADVÉG**  
gazdaságkutató zrt.



**STRATEGOPOLIS**  
KÖZMŰVELŐDÉSI, TUDOMÁNYOS ÉS SZAKKÖZVETÉSI KÖZHASZNÚ ALAP

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# Chapter 1 Introduction

## 1. COUNTRY BACKGROUND

Georgia is located east of the Black Sea and occupies a land area of 69,700 square kilometres, including the occupied territories of Abkhazia and the Tskhinvali region/South Ossetia. Georgia is bordered by Russia to the north, Azerbaijan to the east, Armenia and Turkey to the south and the Black Sea to the west. Georgia's terrain is largely mountainous with the Great Caucasus Mountains in the north and the Lesser Caucasus Mountains in the south. *Kolkhetis Dablobi* (Kolkhida Lowland) opens to the Black Sea in the west, with the Mtkvari River Basin in the east.

Georgia's natural resources include forests, hydropower, manganese deposits, iron ore, copper and coal, as well as insignificant oil deposits. In the west, Georgia's coastal climate and soils allow for tea and citrus growth. However, none of the available natural resources constitutes sufficient deposits for significant export.

Georgia consists of nine regions divided into 65 districts. Adjara and Abkhazia, as autonomous republics and Tbilisi, Georgia's capital city, are separately administered.

According to the Geostat data for January 2013, Georgian population on the territories controlled by the central government (excluding occupied Abkhazia and Tskhinvali Region/South Ossetia) is 4,483,8 in total.<sup>1</sup>

Based on the last census in 2002, the majority (83.8%) of the population is ethnic Georgian. Other minority ethnic groups in Georgia include Azeri (6.5%), Armenians (5.7%) and Russians (1.5%). The population is comprised of Orthodox Christians (83.9%), Muslims (9.9%), Armenian-Gregorian (3.9%), Catholics (0.8%) and others (1.5%). The official language of Georgia is Georgian. Approximately 84.1% of the population speak Georgian as their native language, 1.9% speak Russian, 5.4% speak Armenian, 6.5% speak Azeri and 2.1% speak other languages. A large proportion of the population is bilingual, speaking both Georgian and Russian fluently. The literacy rate for the population over the age of 15 is 99.7%.

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<sup>1</sup> Data available at <http://www.geostat.ge/index.php?action=0&lang=eng>.

## A. BRIEF HISTORY PRIOR TO THE ROSE REVOLUTION

The history of the territory comprising the modern state of Georgia is marked by periods of invasion and subjugation by neighbouring empires. The first Georgian state emerged 2,800 years ago. In the eleventh and twelfth centuries, a powerful Georgian state controlled broad sections of the South Caucasus; however, from the thirteenth century onwards, Georgia fragmented into several kingdoms and faced repeated invasions from the Ottoman, Persian and Mongol empires.

In the late eighteenth century, the Georgian monarchs began efforts to gain Russian protection from the Persians. From 1801, the Russian Empire gradually annexed Georgia's entire territory.

The overthrow of the Russian Czar in 1917 and the events leading up to the Bolshevik revolution of October 1917 resulted in the declaration of independence of the Georgian state on 26 May 1918. Georgian independence lasted until 1921, when the Russian Red Army invaded Georgia and forced out the independent government. Georgia was incorporated into the Soviet Union, from 1922 until 1936, as part of the Trans Caucasian Soviet Federated Socialist Republic and, from 1936, as a separate Soviet socialist republic.

In the late 1980s, with the collapse of communism in Eastern Europe, Georgian nationalism began to reassert itself, particularly after Soviet soldiers used lethal force to disperse Georgian pro-independence protesters in April 1989 in Tbilisi.

By 1991, leader of the Georgian national liberation movement and later the first President of the independent Georgia Zviad Gamsakhurdia had begun to assert Georgia's independence from Moscow. In March 1991 Gamsakhurdia and his supporters managed to organize referendum on Georgian independence that was approved by 99% of Georgian voters. The Parliament passed a declaration of independence from the Soviet Union on 9 April 1991, and the Georgian people elected Zviad Gamsakhurdia as president.

Due to various external and internal political factors Gamsakhurdia was forced to leave the country in January 1992.

In late 1991, at the same time, the Soviet Union was disintegrating and Georgia achieved widespread international recognition as an independent state. On 23 March 1992, the independence of Georgia as a sovereign state was recognised by the European Union countries and, on 31 July 1992, Georgia became the 179th member of the United Nations.

After former President Gamsakhurdia was forced from office in early 1992, a military council made up of the political and paramilitary leaders of the opposition took control. In March 1992, Eduard Shevardnadze, former Foreign Minister of the Soviet Union, returned to Georgia at the invitation of the military council and a new legislative body, the State Council, was created until parliamentary elections were held in October 1992. The newly-elected Parliament created the post of head of government for Mr. Shevardnadze, which was combined with his existing position as Chairman of the Parliament.

Shevardnadze was elected as President under the new Constitution in November 1995. Although he was re-elected in April 2000, Shevardnadze was ousted in November 2003 following the Rose Revolution, a peaceful uprising marked by mass demonstrations over the conduct of parliamentary elections, popular discontent at widespread corruption and the slow pace of reforms.

#### B. ROSE REVOLUTION OF NOVEMBER 2003 AND THE NEW GOVERNMENT OF GEORGIA UNDER PRESIDENT MIKHEIL SAKASHVILI

President Mikheil Saakashvili, who was the principal leader of the Rose Revolution that ousted former President Shevardnadze, was elected president in January 2004 by an overwhelming majority of the vote. President Saakashvili consolidated his position when his National Movement-Democratic Front won a Constitutional majority. President Saakashvili's key policies include fighting corruption, improving pay, pensions and living standards for average Georgians, implementation of far-reaching institutional and systemic reforms aimed at improving the business environment and steering Georgia towards the membership in NATO and the European Union. President Saakashvili has also pledged to restore Georgia's territorial integrity by fully returning Abkhazia and the Tskhinvali region/South Ossetia under Georgia's sovereignty.

President Saakashvili faced his biggest domestic challenge in October 2007 when the formerly weak and fragmented opposition organised a series of anti-Government rallies across the country, which culminated in a mass demonstration in front of the Parliament in Tbilisi. The opposition accused President Saakashvili of being authoritarian and of not taking sufficient action to alleviate poverty.

On 7 November 2007, after five days of demonstrations blocking the main avenue outside the Parliament building, riot police broke up the demonstrations and a two-week state of emergency. On 8 November 2007, President Saakashvili announced that early presidential elections would be called for 5 January 2008,

thereby reducing his constitutional term by a year, and that a plebiscite would be held on rescheduling parliamentary elections for spring 2008.

In accordance with the Constitution, in order to run for re-election, President Saakashvili resigned from the presidency in late November 2007.

The extraordinary Presidential elections took place on January 5, 2008. President Saakashvili won 53.5% of the vote, sufficient for outright victory in the first round, against the 25.7% achieved by the next contender. All other candidates received less than 10% each. The political environment remained polarised.

In early 2008, Russia undertook series of steps to strengthen its ties with Abkhazia and the Tskhinvali region/South Ossetia, despite protests from Georgia. As a result of increased mobilization of Russian military forces and Ossetian militia situation became more tensed by August. In the beginning of August, several Georgian villages were shelled. In August 2008, the conflict escalated and full-scale military actions began as Russian forces crossed the border and Georgian troops engaged with Russian army and Ossetian militia under the Russian direction and control. In the days that followed the initial outbreak, Georgia declared a state of war as Russian forces launched bombing raids deep into Georgia, targeted and destroyed Georgian civilian infrastructure (including railway assets of the Company), blockaded part of the Georgian coast, took control of Tskhinvali (The Tskhinvali region/South Ossetian administrative centre) and the Abkhazia region, landed marines on the Abkhazia coast and occupied the cities of Poti, Gori, Senaki and Zugdidi. After five days of war, the EU-mediated ceasefire was declared on August 12, 2008 that among other things called for the withdrawal of Russian forces. Up to now, Russia remains in breach of every single provision of this cease-fire agreement.<sup>2</sup>

In an illegal move, Russia recognized the independence of Abkhazia and South Ossetia, with support from only Nicaragua, Venezuela and Nauru. In response, the international community confirmed the ethnic cleansing of Georgians in the Tskhinvali region/South Ossetia during the war, as well as in Upper Abkhazia, which created thousands of additional internally-displaced persons and refugees. Russia's status as an occupying power was also confirmed by international community, including the United States,<sup>3</sup> European Parliament,<sup>4</sup>

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<sup>2</sup> For more information about the August 2008 Georgian-Russian war and the subsequent occupation see Russian Aggression available at the website of the Ministry of Foreign Affairs of Georgia at [http://www.mfa.gov.ge/index.php?sec\\_id=552&lang\\_id=ENG](http://www.mfa.gov.ge/index.php?sec_id=552&lang_id=ENG).

<sup>3</sup> See Unites States Senate S.Res. 175, 112<sup>th</sup> Congress 1<sup>st</sup> Session, May 10, 2011, available at <http://www.civil.ge/files/files/2011/SenateResolution175.pdf> ; Unites States House of

Council of Europe,<sup>5</sup> NATO Parliamentary Assembly,<sup>6</sup> as well as number of European states.<sup>7</sup>

A European Union Monitoring Mission (EUMM) was set up to monitor the implementation of the cease-fire agreement;<sup>8</sup> however, Russia refuses to allow the EUMM to have access to the occupied regions.<sup>9</sup>

After the August 2008 conflict Georgia declared the withdrawal from the CIS, which became effective in August 2009.<sup>10</sup>

In late 2008, international discussions on the security and stability in Abkhazia and the Tskhinvali region/South Ossetia were launched. Geneva Talks are co-chaired by the EU, OSCE and the UN and the delegations from Georgia, Russia, and the United States participate in them. Format also allows for the participation of the representatives of Abkhaz and Ossetian communities, including the representatives of Tskhinvali and Sokhumi and legitimate governments in exile.<sup>11</sup>

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Representatives, H. Res. 526, September 19, 2012, available at <http://www.gpo.gov/fdsys/pkg/BILLS-112hres526eh/pdf/BILLS-112hres526eh.pdf>.

<sup>4</sup> See European Parliament Demand that Russia ends Occupation of Georgian territories, Eurasian Law, November 18, 2011, available at <http://eurasian-law-breaking-news.blogspot.hu/2011/11/european-parliament-demands-russia-to.html>.

<sup>5</sup> See Council of Europe Parliamentary Assembly Resolution The consequences of the war between Georgia and Russia, Doc. 11732 rev., 1 October 2008, available at

<http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12053&Language=EN>; see also Council of Europe Parliamentary Assembly Resolution on Humanitarian Consequences of the War between Georgia and Russia, Doc. 11/789, January 12, 2009, available at <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12152&Language=EN>.

<sup>6</sup> See Resolution 382 on the Situation in Georgia, NATO Parliamentary Assembly, November 16, 2010, available at <http://www.nato-pa.int/Default.asp?SHORTCUT=2245>.

<sup>7</sup> See in particular: Estonia Respects Georgia's Sovereignty, Territorial Integrity; Estonia-Georgia Parliamentary Group of the Parliament of Estonia adopted a statement on the second anniversary of Georgian war; August 10, 2010; reprinted and available at <http://www.news.az/articles/20672>.

<sup>8</sup> Council Joint Action 2008/736/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia, September 15, 2008, Official Journal of European Union, 48/26, September 17, 2008; available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:248:0026:0031:EN:PDF>.

<sup>9</sup> About EUMM, Main Challenges, available at [http://www.eumm.eu/en/about\\_eumm](http://www.eumm.eu/en/about_eumm).

<sup>10</sup> Information on Georgia's withdrawal from CIS, available at the website of the Ministry of Foreign Affairs of Georgia at [http://www.mfa.gov.ge/index.php?lang\\_id=ENG&sec\\_id=95&info\\_id=10783](http://www.mfa.gov.ge/index.php?lang_id=ENG&sec_id=95&info_id=10783).

<sup>11</sup> For the information on Geneva Talks see <http://www.osce.org/what/conflict-prevention>; See also EU Support to Peace mediation: Developments and Challenges, European Peace-building Liaison Office, available at

### C. CONSTITUTIONAL ARRANGEMENT OF THE GOVERNMENT OF GEORGIA

The Constitution of Georgia was adopted on 24 August 1995. The President of Georgia is the Head of State, responsible for carrying out domestic and foreign policy. The President is elected by popular vote for a five-year term and is eligible for one additional term.

The last presidential elections were held on 5 January 2008 and the next presidential elections are due in 2013.

Following an amendment to the Constitution in February 2004, the Prime Minister replaced the President as the Head of Government.

As a result of the 2010 Constitutional amendments, Georgia is now Parliamentary Republic while the 1995 Constitution as amended in 2004 provided the model of strong Presidential republic. The vast majority of the provisions of the New Constitution will become effective after the next Presidential election scheduled in October 2013.

The structure and internal operations of the Government, including the ministers, Ministries, regional offices of the ministries and state sub-structural institutions, are regulated under the Law on the Structure, Authority and Rule of Activities of the Government of Georgia, adopted in February 2004.

The Government has the power under the Constitution to adopt decrees and resolutions. It is led by the Prime Minister, the Ministers and the State Ministers (who are Ministers appointed to deal with acts of supreme state importance). The Prime Minister appoints one of the members of the Government as Deputy Prime Minister.

According to the Constitution, the Parliament is the supreme representative body of Georgia. It exercises legislative power, determines the principal direction of domestic and foreign policy and exercises control over the activity of the Government. Since 1995, the Parliament has been a unicameral body with 235 members, each elected for a term of four years; in the last election held on 28 March 2004, 150 of such members were elected by party list and 85 by single-member districts. Members of the Parliament are elected by popular vote for a term of four years.

The Constitution also provides that after Georgia's territorial integrity is restored, Georgia will undergo a process of territorial administrative reform and the Parliament will become a bicameral body consisting of a Republican Council and a Senate.

The Parliament is also empowered to hold a vote of no-confidence in the Government, which is passed by a simple majority of the total number of members of the Parliament. The Prime Minister can submit a vote of no-confidence in the Government along with any draft laws on the Budget or the Tax Code, dated October 17, 2010, as restated and amended or any draft laws regarding the procedure, structure, authority and activity of the Government. Upon the implementation of the provisions of the New Constitution, the Prime Minister will be entitled to submit a vote of no-confidence in the Government in relation to any draft law. [If the Government loses a vote of no-confidence, the President is required, subject as provided above, to dismiss the Government or dissolve the Parliament within a week and schedule extraordinary elections.]

The courts in Georgia consist of: (i) the district (city) courts, which are the courts of first instance; (ii) the appellate courts, which consider appeals from the district (city) courts; and (iii) the Supreme Court of Georgia, the final court of appeal, which has jurisdiction over civil, criminal and administrative matters. The creation of special or extraordinary courts is prohibited (with the exception of military courts); however, the creation of jury courts is possible in specific cases, as prescribed under Georgian law.

The Constitutional Court is a separate judicial body of Georgia, exclusively dealing with matters concerning the Constitution of Georgia and the conduct of constitutional proceedings. It was established in 1996 and consists of nine judges. The nine judges, called the Plenum, adjudicate constitutional claims either sitting as the Plenum or, where permitted, using two boards. Each board consists of four judges and adjudicates on behalf of the entire nine-judge Constitutional Court on a case-by-case basis. Three members of the Constitutional Court are appointed by the President, three members are elected by an enlisted composition of the Parliament (as provided for in the New Constitution), and three members are appointed by the Supreme Court. The term limit for members of the Constitutional Court is ten years. The Constitutional Court elects the President of the Constitutional Court from among its members for a term of five years. Regional Administration

Georgia consists of nine regions divided into 69 districts. Ajaria and Abkhazia, as autonomous republics, and Tbilisi, the capital city of Georgia, are separately administered.



In practice, the Georgian regional administration system is divided into three levels: (i) the top level, which includes the administration of each of the regions, the Tbilisi administration and the administration of the autonomous republics of Abkhazia and Ajaria; (ii) the mid-level, which includes the administration of the administrative districts and six major cities, which are administered separately from the surrounding districts; and (iii) the lower level, which includes the administration of the remaining cities, towns, villages and local communities.

The main administrative body of Tbilisi is the City Council (the *Sakrebulo*), which is an elected body headed by its Chairman, who is appointed by the Council from among its members. The City Council has the power to approve the city budget and any changes to it and to set local taxes. The mayor of Tbilisi was elected first time in 2010.

Due to the unresolved disputes with Abkhazia and the Tskhinvali region/South Ossetia, the territorial administrative structure of the Georgian state is deliberately left open in the Constitution, which states that “the territorial state structure of Georgia shall be determined by Constitutional law after the complete restoration of the jurisdiction of Georgia over the whole territory of the country”. This provision allows Georgia to postpone defining the status of Abkhazia and the Tskhinvali region/South Ossetia.

However, Article 2 of the Constitution and the New Constitution provides for matters of local importance to be regulated through local self-government, without prejudice to state sovereignty. With effect from 1 January 2011, a new chapter has been added to the Constitution (through the New Constitution) entitled “Local Self-Government”, whereby the rights and authority of local self-government units are separated from state institutions. In accordance with the New Constitution, the representative body of the local self-government unit, the City Council (*Sakrebulo*) is elected by the Georgian citizens registered in the relevant area based on direct, universal, equal suffrage and secret ballot. The executive bodies of local self-government units are accountable to the representative bodies.

#### D. GEORGIA'S INTERNATIONAL RELATIONS

Georgia has established bilateral and diplomatic relations with 149 countries and has 50 diplomatic missions and six general consulates abroad. Georgia hosts 46 diplomatic and consular missions on its territory, including diplomatic missions of the European Commission and the Council of Europe. Georgia enjoys

favourable visa regimes with 70 countries, including those within the EU, while Georgia has granted visa free regimes to 80 countries worldwide.

Georgia is a member of a number of international and regional organisations, including the UN, the IMF, the World Bank, the International Development Association, the Council of Europe, the EBRD, the World Trade Organisation (the “WTO”), the CIS, the GUAM Organization for Democracy and Economic Development (“GUAM”), the OSCE and the Black Sea Economic Cooperation Organization (the “BSEC”). Georgia is actively pursuing membership of NATO and has expressed a long-term ambition of attaining EU membership. Georgia is also a party to a number of multilateral and bilateral treaties, including the New York Convention and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. One of Georgia’s political priorities is to gain membership in both NATO and the EU.

## **1. JOURNEY FROM A FAILED STATE TO A #1 REFORMER**

Due to the extremely challenging internal political situations prevailing since the independence in 1991, Georgian development had been halted. The situation has changed since the 2003 Rose Revolution that brought a team of young reformers in power. The deteriorated relationship with Russia, protracted armed conflicts in Abkhazia and Tskhinvali Region/South Ossetia further contributed to the hardship and low pace of development.

When the young reformers under the leadership of Mikheil Saakashvili came in power and formed the government in 2004, Georgia was a failed state with non-functional public institutions, weak economy, rampant corruption and overwhelming pessimism in the society.

All these years of independence Georgia tried to play the middle between Russia and the West. The short period of Gamsakhurdia’s time is an exception when Georgia had very strong pro western aspiration, though the weak state of Georgia was destined for the failure at that time. Eduard Shevardnadze, who brought relative stability in Georgia, tried to play a balanced politics appeasing Russia and looking forward at the country’s Euro-Atlantic integration. Though, his government did nothing concrete to make a progress in the journey towards the Euro-Atlantic integration.

Economy suffered all these years of independence before the Rose Revolution. In the best years of 1998-2003, Georgia's GDP per capita was 743 USD. The total GDP was 3,990 million USD in 2003.

In 2003, Georgia's Foreign Direct Investment was around 340 million USD compared to more than 2 billion USD in 2007.

State budget was little more than 1 billion Georgian Lari (GEL) in 2002 and 1,2 billion GEL in 2003 compared to 7 billion GEL in 2010.

Although in the same period the economy grew by just under 5 percent a year, much of it coming from the one-time investment in the Baku- Tbilisi-Ceyhan oil pipeline. Rural areas suffered most from the collapse and benefited little from the listless recovery. Poverty in rural areas remained persistently higher than in urban areas. Growth in revenue stagnated thereafter through 2003.<sup>12</sup>

Due to the rampant corruption, state institutions were basically non-existent. Corruption was an integral part of the daily lives of Georgians. Salaries for public servants were very low and did not exceed 50 USD per months. Citizens had to pay bribes for receiving basic services, such as passport, birth registration, property registration or driving license. According to the International Financial Corporation's Survey 70% of Georgians had to pay bribes to get the things done.<sup>13</sup>

In light of the above-described circumstances, the new government under Mikheil Saakashvili faced to tremendous challenges: eradication of corruption, providing economic growth, creating strong institutions and building the state in general were among those.

The task had not been easy, as Georgia had to resist increased Russian pressure in light of the country's gradual Euro-Atlantic integration. However, despite of the

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<sup>12</sup> Fighting Corruption in Public Services: Chronicling Georgia's Reforms, the World Bank.

<sup>13</sup> Business Perception Survey Georgia 2002, International Finance Corporation, reprinted by the Ministry of Justice of Georgia in „Georgia one of the Least Corrupt Countries in Europe,” available at [http://www.justice.gov.ge/files/Departments/Analytical/Eurobarometer\\_Brochure\\_-\\_final\\_print\\_versions\\_14.09.2012.pdf](http://www.justice.gov.ge/files/Departments/Analytical/Eurobarometer_Brochure_-_final_print_versions_14.09.2012.pdf) .

geopolitical challenges, the war with Russia in 2008, occupation of 20% of the national territories by the Russian Federation, around half million internally displaced persons (IDPs) from the wars in 1990s and in 2008 and the world financial crisis started in 2008, the Saakashvili Government managed to undertake the multifaceted reforms vital for Georgia's future.

Although often unpopular and resisted, the reforms transformed Georgia from the failed state to the # 1 Reformer in the World for the five consecutive years according to the World Bank.<sup>14</sup>

The major policies of the reforms are described bellow.

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<sup>14</sup> See Doing Business 2013, the World Bank, International Finance Corporation, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf> ; See also 10 IDA countries among Top 10 Business Reformers, 2008, available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:21488040~pagePK:51236175~piPK:437394~theSitePK:73154,00.html> .

## Chapter 2 Transatlantic Oriented Foreign Policy

### 1. INTRODUCTION

After the Rose Revolution of 2003, the new Government of Georgia declared and actively pursued the foreign policy aimed at Georgia's integration into the Euro-Atlantic institutions. Along with the Euro-Atlantic integration, deepening the ties with the United States of America had been a priority for the Saakashvili's government.

Though, the Euro-Atlantic integration was a declared priority of the pre-Rose Revolution Government under the President Eduard Shevardnadze nothing was tangible done in this direction. President Shevardnadze was well known for his attempts to balance the relationships between the West and Russia; he failed to undertake domestic reforms necessary to ensure Georgia's greater convergence with the west.

Saakashvili's government believed that the Euro-Atlantic integration was an existential issue for Georgia; As a small country in a very volatile region with the strategic location between Asia and Europe, Georgia has no choice but to ensure its rapprochement to the West.

This vision is reflected in the key documents of the State. The National Security Concept of Georgia first adopted in 2005 identified Euro-Atlantic integration and strengthening the foreign policy ties with the west as priorities for the country.<sup>15</sup> It should be taken into consideration that back in 2005, the new Georgian Government has just started major reforms in the country necessary for achieving the foreign policy goals. Therefore, the National Security Concept identified democratic reforms, including creating appropriate environment for civil society, media independence and pluralism, development of strong local self-government bodies and substantial reforms of the armed forces as necessary pre-conditions for the Euro-Atlantic integration. Reforming the armed forces was viewed as particularly important for Georgia's NATO membership in the future. According to the National Security Concept: "Georgia is carrying out large-scale defense reforms" in an attempt to

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<sup>15</sup> National Security Concept Finalised, CIVIL GEORGIA, May 15, 2005, available at <http://www.civil.ge/eng/article.php?id=9887>

create an armed forces compatible with NATO standards, capable of overcoming the threats and challenges which the country's national security faces.<sup>16</sup>

Later in 2010, the National Security Concept adopted in 2005 was amended in light of the Russian aggression in August 2008 and the subsequent occupation of the Georgian territories in Abkhazia and Tskhinvali Region/South Ossetia.

The August 2008 war with Russia showed, on the one hand, the vulnerability of the country in relation with its northern neighbor and on the other the importance and inevitability of Georgia's Euro-Atlantic integration for its survival.

The August 2008 war did not change Georgia's foreign policy priorities, it has refocused the interests and highlighted the importance of the Euro-Atlantic integration even more clearly.

The foreign policy vector and the priorities, one could say, remained the same in the amended National Security Concept; although some emphasis were strengthened on the country's aspiration to ensure greater convergence with the Euro-Atlantic institutions. The United States of America has been viewed again as the most important strategic partner in achieving these goals.

Georgia's amended National Security Concept reaffirms that the country belongs to Europe geographically, politically and culturally and it was artificially cut-off from its natural belongings and the course of development by the historic cataclysms.<sup>17</sup> Therefore, returning back to where it belongs is a natural aspiration of the Georgian government and the people.

According to the amended National Security Concept: "Georgia aspires to become part of the European and Euro-Atlantic structures, which will enable it to consolidate its democracy and strengthen its national security. Georgia is committed to the principle that all nations have the right to choose their own strategic path for future development, as well as the alliances they want to join."<sup>18</sup> Membership to the NATO and the European Union is identified as one of

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<sup>16</sup> *Ibid.*

<sup>17</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

<sup>18</sup> *Ibid.*

Georgia's foreign and security policy priorities viewed as Georgia's sovereign choice, one, which would strengthen Georgia's security and ensure its stable development.<sup>19</sup>

Thus, Georgia viewed Euro-Atlantic integration as a basis for its democratic development, stability and as a national security guarantee necessary for prosperity of the nation.

The same spirit is showed in the Georgia's Foreign Policy Strategy of 2006-2009 adopted by the Ministry of Foreign Affairs of Georgia.<sup>20</sup> According to the Foreign Policy Strategy, one of the priorities for the Georgian diplomatic and foreign services was promotion of the country's standing to establish its place in the common European family by deepening integration with the European Union and joining the NATO.<sup>21</sup>

Although the NATO membership and integration in the European Union seem to be a primary goal of the country, importance of having closed ties with other western institutions has never been underestimated. For instance, Council of Europe, Organization for Security and Cooperation in Europe, commonly known as OSCE, and the United Nations have been identified as of outmost importance for Georgia's Euro-Atlantic integration.

According to the National Security Concept, Georgia considers cooperation in the framework of the Council of Europe as the best opportunity to establish European political and legal values and norms. Georgia adheres to the Council of Europe's standards as an important factor in the development of a democratic state based on Western values and norms. Georgia is determined to fulfill the recommendations of the Council of Europe on issues of democratic development at the local and regional levels, as well as with respect to human rights, the rights of national minorities, and strengthening the rule of law. Georgia considers very important the participation of the Parliament of Georgia in the parliamentary assemblies of the OSCE and Council of Europe.

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<sup>19</sup> *Ibid.*

<sup>20</sup> Georgia's Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).

<sup>21</sup> *Ibid.*

Georgian authorities fully appreciated the role and importance of the OSCE in ensuring European security, playing a leading role in strengthening peace, stability, democracy, and human rights in Europe. The National Security Concept of Georgia reaffirms the country's commitment respecting and upholding Helsinki Final Act and the principles of other fundamental OSCE documents, which are based on profound respect for the sovereignty and territorial integrity of states.<sup>22</sup> Georgia aspired to increased role of the OSCE in the region as it believed that the further advancement of the OSCE's role will contribute to strengthening the security of member states.

Georgian Government believed that it was important for the country to increase the effectiveness of the United Nations as the global organization with broad mandate in the region. Though, the greater UN role in the region remained an aspiration; in fact the mandate of the United Nation's Observer Mission in Georgia was terminated as a result of Russian pressure in 2009.<sup>23</sup> The Government has considered the mandate termination as an unhelpful precedent that has a negative impact on the UN's role in establishing peace and security in the world in general and in the region more particularly.

Along with multinational cooperation, Georgia prioritized development and/or strengthening bilateral ties with individual states. As mentioned above, the United States of America has been considered as a strategic partner for Georgia. As, since the restoration of Georgia's independence in 1991, the United States has actively supported Georgia's sovereignty, territorial integrity, the strengthening of its democratic institutions, the development of its market economy, and the country's full integration into European and Euro-Atlantic institutions.

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<sup>22</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

<sup>23</sup> Security Council fails to Adopt Resolution Extending Mandate of Georgia, UN Security Council, SC/9681, available at <http://www.un.org/News/Press/docs/2009/sc9681.doc.htm>, See also Fifth Committee Approves Liquidation Budget for Terminated Georgia Mission,

Takes up Financing for Proposed Enterprise Resource Planning System, Sixty-fourth General Assembly of the United Nations, GA/AB/3934, available at <http://www.un.org/News/Press/docs/2009/gaab3932.doc.htm>.



Besides the United States, Georgia has viewed Baltic countries (Lithuania, Latvia and Estonia) as partners on a broad range of issues. Sharing the experience of the Baltic States in European and Euro-Atlantic integration has been considered to be very important for Georgia. Support from these countries to Georgia on its path to NATO and EU integration has been remarkable.

Georgia also viewed cooperation with Central and Southeast European and Scandinavian states to be of significant importance. Deepening economic and political relations with these states, and their support for Georgian sovereignty and reforms, are important.

Thus, the Government of Georgia identified membership to the NATO and the European Union as strategic priority and a national security issue. All other foreign policy dimensions are defined in light of that major strategic goal.

Georgia's roadmap for the Euro-Atlantic integration under Mikheil Saakashvili's government is described below.

## **1. RELATIONSHIP WITH NATO AND THE STEPS TOWARDS THE NATO MEMBERSHIP**

According to the Foreign Policy Strategy of Georgia for 2006-2009, maintaining the dynamics of integration aimed at ultimate membership in the NATO was a primary task identified for the diplomatic services of Georgia.<sup>24</sup> According to the National Security Concept, accession to the NATO was an important foreign policy objective of Georgia. "Georgia views NATO as the basis of the Euro-Atlantic security architecture as well as the major mechanism for ensuring security and stability in the Euro-Atlantic space."<sup>25</sup>

Georgia viewed NATO membership as a solid guarantee for its security and stability as well as it appreciates that the reforms related to NATO membership help to strengthen the country's democratic institutions and foster its defense capabilities. At the same time, for many years, Georgia has been not only a

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<sup>24</sup> Georgia's Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).

<sup>25</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

consumer of security, but it also has shared responsibility for collective security and has actively participated in various international missions. Participation in the International Security Assistance Force in Afghanistan (ISAF) is one of them. Georgia is one of the major contributors to military operations in Afghanistan and is ready to ensure their successful conclusion, along with other NATO forces.

For the factual accuracy, it should be mentioned, that Georgia cooperated with NATO since the early 1990s. Although the experience of cooperation was important and useful, the Georgian government under President Shevardnadze had not taken necessary steps for real convergence with the organization. As mentioned above, Shevardnadze often used its declared goals of Euro-Atlantic integration as a tool for attempted balancing of the relationships with Russia and vice-a-versa.

#### A. NATO-GEORGIA COOPERATION PROGRAMS

It is noteworthy that since 1994 Georgia participated in the NATO's Partnership for Peace program, known as PfP, which allowed Georgia to engage in some sort of political dialogue with the organization.

In 1996, NATO-Georgia Individual Partnership Program, known as IPP, was elaborated. The document was important as it identified the list of reforms and activities Georgia should have pursued in order to achieve greater cooperation and to strengthen the ties with the organization. In the context of the IPP, Georgian military forces started participation in military trainings and the drills that played important role for improving the compatibility of Georgia's armed forces to the NATO standards. Though, it was still a very early stage of cooperation and the army still needed major reforms that the Government of Georgia was unable to conduct. Therefore, the military cooperation remained very limited in nature.

Later Georgia moved to another stage of cooperation with the NATO. Since 1999, Georgia participates in NATO's Planning and Review Process, known as PARP, which was a step forward to the greater compatibility of Georgian armed forces and the management systems with those of the organization and the member states.

In 1997, Georgia became a member of an important political forum of NATO, - the Euro-Atlantic Partnership Council.

Georgia – NATO cooperation moved to a different level in 2004.

Georgian military contingents participate in the ISAF operation in Afghanistan. Georgia is the largest non-member contributor to the NATO's efforts in Afghanistan.

Until the August 2008 Russian-Georgian war, Georgian military contingents were present in Kosovo in the framework of the NATO KFOR operation.

Georgia-NATO cooperation has intensified largely at the expense of the strong determination and commitments of the Saakashvili's Government to have closer ties with the organization. Georgia was the first country, which prepared, submitted to the NATO and approved the Individual Partnership Action Plan, known as IPAP, as early as in October 2004, few months after the new Government came into power. This mechanism of practical cooperation with NATO, developed for countries with the political will to deepen their relationship with the organization, aims at facilitation of political, security, military, economic, social and administrative reforms necessary for Georgia's further integration into the NATO.

IPAP was an important document and a step forward in Georgia's relationship with the organization for two reasons: first, the document showed Georgia's commitments to domestic reforms and greater contribution to international peace and security and second, it was the first message from the organization that every democratic state had a chance of membership. The IPAP has 4 major areas of what should have been reformed in the country and the performance was assessed by the NATO: 1) Political and Security affairs, 2) Defense, Security and Military affairs, 3) Public information, scientific, environmental protection and emergency management issues, 4) Administrative, information security and resource affairs.

In parallel with the IPAP, NATO awarded Georgia the "Intensified Dialogue" ("ID") status in September 2006, giving Georgia greater access to a more intense

political exchange with NATO on its membership aspirations and relevant reforms.

Georgian government did not spare its efforts to ensure successful performance of the IPAP, which was replaced by the Annual National Program, known as ANP, in 2008.

The decision to give Georgia an ANP was made at the NATO Foreign Ministerial in December 2008. The ANP identifies general goals and specific actions that have to be undertaken during the year in question. It has five chapters, Political and Economic issues, Defense and Military cooperation, Resources, Security cooperation, Legal issues.

The ANP was a more advanced document with next generation of reforms and frameworks of greater cooperation between Georgia and NATO. Through the ANP, Georgia, like the countries with Membership Action Plan, known as MAP, started implementation of cooperation programs on annual basis.

In 2008, NATO-Georgia Cooperation Commission was established. The Cooperation Commission is a political mechanism that is a good forum for high-level political dialogue and an opportunity for initiating and implementing specific projects in wide ranges of areas. As early as in 2006, Georgian government identified in its Foreign Policy Strategy importance of political dialogue with NATO both in the 26+1 framework and on bilateral basis as an important mechanism for increase of trust and responsiveness of the organization.<sup>26</sup> The Cooperation Commission shall be viewed in that context.

In 2008, the decision was made to open NATO liaison office in Tbilisi that was officially opened in 2010.

Intensification of cooperation on political level was very visible in 2008. This was partially a response of NATO towards the Russian aggression and also a type of alternative of the MAP that Georgia was denied at the Bucharest Summit in April 2008.<sup>27</sup> For Georgian people, greater visibility of NATO was important after the

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<sup>26</sup> Georgia's Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).

<sup>27</sup> Bucharest Summit Declaration Issued by the Heads of State and Government Participating in a Meeting of North Atlantic Council in Bucharest on April 3, 2008, paragraph 23, available at [http://www.nato.int/cps/en/natolive/official\\_texts\\_8443.htm](http://www.nato.int/cps/en/natolive/official_texts_8443.htm)

shocking war with Russia and the increasing feeling of insecurity and abandonment from the West. The Government needed to show that Georgia's friends still supported the country and would continue supporting its security and independence.

The military aggression by the Russian Federation could not alter Georgia's course toward democratic development and NATO integration. The creation of the NATO-Georgia Commission after the Russian-Georgia war of 2008 and the beginning of implementation of the Annual National Plan, as well as the establishment of a NATO Liaison Office in Georgia, gave new impetus to the NATO-Georgia relations.

The cooperation between Georgia and NATO has been intensified through the years. In 2010, new mechanism partnership, NATO-Georgia Military Cooperation, has launched.

Along with the above-described major programs, Georgia actively cooperates with NATO in the frameworks of other programs such as Professional Development Program (PDP), Defense Education Enhancement Program (DEEP) and NATO Maintenance and Supply Agency (NAMSA) project Georgia III.

## B. CHALLENGES IN NATO-GEORGIA RELATIONSHIPS

Strengthening the cooperation with NATO, increasing of the organization's responsiveness towards Georgia's challenges and ultimately achieving the NATO membership has been a goal for the Georgian Government under President Saakashvili.

There had been a wide consensus in Georgian political circles and among the public regarding membership in the Alliance, which was confirmed by the results of a plebiscite held in 2008. In 2008, more than 70 % of Georgian population voted in favor of the NATO membership.

NATO Membership Action Plan, MAP, was viewed as a demonstration of effective mutual cooperation between Georgia and the organization as well as an important message on Georgia's membership prospects. MAP was considered not only as a political achievement and a national security guarantee but also a

helpful tool for further reforms on domestic level.

Georgia worked very hard to receive MAP in Bucharest Summit in April 2008. Bucharest Summit was a challenge and opportunity for the Georgian Government. The Foreign Policy Strategy identified the work with the Alliance member states' governments to get the support for MAP as a priority.<sup>28</sup>

In February 2008, President Saakashvili wrote to NATO's Secretary General formally expressing Georgia's readiness to be granted NATO's MAP. Although Georgia was not granted a MAP at the NATO Summit in Bucharest on 2 April 2008, NATO issued a declaration following the Summit confirming that Georgia will become a member of NATO.<sup>29</sup>

Georgia did not receive MAP at the Bucharest Summit, but it did receive the commitment from the organization that it, along with Ukraine, will become a member.<sup>30</sup> The Bucharest Summit Declaration, welcoming both the democratic reforms undertaken on domestic level and contributions made by Georgia to the Alliance operations said that "MAP is the next step for Ukraine and Georgia on their direct way to membership. Today we make clear that we support these countries' applications for MAP."<sup>31</sup>

Despite Georgia's disappointment in Bucharest, the Summit marked another stage of intensified political cooperation between the Alliance and Georgia. The Heads of State and Governments participating in the Summit entrusted the respective Foreign Ministers to make progress assessment at their meeting in December 2008 and gave them the authority to decide on the MAP applications of Georgia.<sup>32</sup>

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<sup>28</sup> Georgia's Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).

<sup>29</sup> Bucharest Summit Declaration Issued by the Heads of State and Government Participating in a Meeting of North Atlantic Council in Bucharest on April 3, 2008, paragraph 23, available at [http://www.nato.int/cps/en/natolive/official\\_texts\\_8443.htm](http://www.nato.int/cps/en/natolive/official_texts_8443.htm) .

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.* The decision as well as the future plans concerned both Georgia and Ukraine.

The commitment of the Alliance in relation to Georgia's future membership was reaffirmed in the Strasbourg/Kiel<sup>33</sup> and Lisbon Summit<sup>34</sup> decisions, as well as in the new Strategic Concept of NATO<sup>35</sup>.

The NATO Summit, held in Lisbon in November 2010, reaffirmed the decisions of the 2008 Bucharest Summit for the promotion of Georgia as a NATO member and expressed explicit support for Georgia's sovereignty and territorial integrity within its internationally recognized borders.<sup>36</sup> The Bucharest Summit decision on Georgia's future NATO membership has also become an integral part of the Alliance's New Strategic Concept.<sup>37</sup> NATO called on Russia to reverse its recognition of the independence of Abkhazia and the Tskhinvali region/South Ossetia and comply with its commitments under the agreed ceasefire.

Need to ensure free and fair elections in line with democratic standards in October 2012 was emphasized from NATO as a preconditions for further progress in the relationship between the Alliance and Georgia. The Parliamentary Elections were assessed as free and fair by the OSCE ODIHR.<sup>38</sup> President Saakashvili and his United National Movement Party that has significant minority in the Parliament of Georgia continued supporting Georgia's NATO aspiration and expressed readiness to consolidate efforts to receive MAP at the next NATO enlargement summit.

Georgia remains committed to security in the Euro-Atlantic region and continues to play an active role in NATO's International Security Assistance Force ("ISAF"). Recognizing the potential threats stemming from global terrorism, the

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<sup>33</sup> Strasbourg/Kehl Summit Declaration, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Strasbourg / Kehl, April 4, 2009 available at [http://www.nato.int/cps/en/natolive/news\\_52837.htm?mode=pressrelease](http://www.nato.int/cps/en/natolive/news_52837.htm?mode=pressrelease).

<sup>34</sup> Lisbon Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Lisbon, November 20, 2010, available at [http://www.nato.int/cps/en/natolive/official\\_texts\\_68828.htm?mode=pressrelease](http://www.nato.int/cps/en/natolive/official_texts_68828.htm?mode=pressrelease).

<sup>35</sup> Strategic Concept for the Defense and Security of the North Atlantic Treaty Organisation, adopted by the Heads of State and Government participating in the meeting of the North Atlantic Council in Lisbon, 19-20 November 2010, available at [http://www.nato.int/strategic-concept/pdf/Strat\\_Concept\\_web\\_en.pdf](http://www.nato.int/strategic-concept/pdf/Strat_Concept_web_en.pdf).

<sup>36</sup> Lisbon Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Lisbon, November 20, 2010, available at [http://www.nato.int/cps/en/natolive/official\\_texts\\_68828.htm?mode=pressrelease](http://www.nato.int/cps/en/natolive/official_texts_68828.htm?mode=pressrelease).

<sup>37</sup> Strategic Concept for the Defense and Security of the North Atlantic Treaty Organisation, adopted by the Heads of State and Government participating in the meeting of the North Atlantic Council in Lisbon, 19-20 November 2010, available at [http://www.nato.int/strategic-concept/pdf/Strat\\_Concept\\_web\\_en.pdf](http://www.nato.int/strategic-concept/pdf/Strat_Concept_web_en.pdf).

<sup>38</sup> Georgia Parliamentary Elections October 1, 2012, OSCE/ODIHR Election Observation Mission, Final Report, available at <http://www.osce.org/odihr/elections/98399>.

Government of Georgia agreed to significantly increase its contribution to the ISAF up to 930 Georgian troops, and, as a result, Georgia is the second-largest per capita contributor of troops among all participating states.

Georgia has also declared its readiness to further support NATO as a transit country, not only through allowing increased air transit, but also through the provision of overland and sea passageways. In this regard, the Government of Georgia has offered that Georgian territory and the country's civilian and military infrastructure may be used for the transportation of both military and non-military NATO cargo.

## **2. INTEGRATION INTO THE EUROPEAN UNION**

Although the cooperation between Georgia and the European Union started in 1992, soon after Georgia's independence, it has intensified after the Rose revolution that, in the words of the EU, brought new Government "committed to an ambitious program of political and economic reforms."<sup>39</sup>

Integration into the European Union has been viewed by the Government of Georgia from different perspectives: political, economic and people-to-people. According to the National Security Concept, Georgia's gradual integration with the EU is one of the most important directions of the nation's political and economic development that will support further strengthening of Georgia's democratic institutions, ensuring greater security and prosperity.<sup>40</sup> Broadening institutional frameworks of cooperation with the EU has been important for Georgia as the country strives to achieve the Four Freedoms (free movement of people, goods, services, and capital) with the EU.<sup>41</sup>

According to the Foreign Policy Strategy of 2006, development of closer relationships with the EU institutions and deepening of political dialogue was a priority for the diplomatic services of Georgia.<sup>42</sup> In order to achieve the goal, Georgian authorities have worked very intensively with the European Commission, Council of the European Union, Office of the High representative for

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<sup>39</sup> Georgia, information available at <http://www.eeas.europa.eu/georgia/>.

<sup>40</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

<sup>41</sup> *Ibid.*

<sup>42</sup> Georgia's Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).



Common Foreign and Security Policy while the Parliament of Georgia took important steps in developing closer ties with the European parliament.

The legal basis of the EU–Georgia relations is the Partnership and Cooperation Agreement (“PCA”), which was concluded in 1996 and entered into force in 1999. The PCA established the EU–Georgia cooperation institutions, including: the Cooperation Council, the Cooperation Committee and the parliamentary Cooperation Committee. The PCA regulates cooperation in areas of political dialogue, trade, investment and economic, legislative and cultural activities. The PCA is automatically renewed on an annual basis until new enhanced contractual relationship is in place between the EU and Georgia.

Gradual integration with the EU remains to be a long-term foreign policy goal of Georgia.

#### A. EU GEORGIA POLITICAL COOPERATION PROGRAMS – ENP AP

As mentioned above, Georgian Government appreciated EU’s role in acceleration of domestic reforms, particularly those related to strengthening rule of law and democracy in Georgia. In 2004, soon after the Rose Revolution, EU launched the EU Rule of Law Mission to Georgia, known as EUJUST THEMIS. This was the first comprehensive program and the first steps towards intensive cooperation in the field of the rule of law and the criminal justice system in particular.

The EUJUST THEMIS was replaced by the European Neighborhood Policy, known as ENP, approved in 2006. Following the European Commission’s recommendation in 2004, the European Council invited Georgia, Azerbaijan and Armenia to participate in the European Neighborhood Policy (the “ENP”). On October 2, 2006 a Joint Statement was signed between the EU Troika and Georgia on the agreed text of the ENP Action Plan. The Joint Statement and the ENP AP were later endorsed by the EU-Georgia Cooperation Council on November 14, 2006. The ENP Action Plan sets out priority areas for cooperation for a period of five years and foresees further strengthening of EU-Georgian relationships, including the possibility to conclude a new enhanced contractual relationship. Overall, the ENP, as an instrument, provides for a deepening of relations between the EU and those countries that now border the EU to the east and south and, therefore, has offered Georgia the opportunity to engage in closer political, economic and cultural relations with the EU, to enhance cross-border cooperation and to promote security and stability in Georgia. The priority areas for cooperation envisaged by the Action Plan include, inter alia, strengthening of

the rule of law; justice, freedom and security; economic development; conflict and security related issues, cooperation in the sectors such as transport, energy, environment, education, culture etc.

The EU-Georgia 5 year Action Plan adopted in the frameworks of the ENP is a political document laying out the strategic objectives of the cooperation between Georgia and the EU.<sup>43</sup>

In the context of the ENP, intensified political, economic, security and cultural cooperation between the EU and Georgia started. According to the Action Plan, EU viewed the level of ambition of the relationship as depending on the “degree of Georgia’s commitment to common values as well as its capacity to implement jointly agreed priorities, in compliance with international and European norms and principles.”<sup>44</sup>

The ENP moved cooperation between EU and Georgia to a significant degree of integration including to a gradual extension of four freedoms to Georgia. It provided an upgrade and intensification of political cooperation, including continuing EU commitment to the conflict resolution. The ENP increased possibilities for Georgia to have closer co-operation in the area of foreign and security policy, including European Security and Defense Policy in particular on the issues of regional stability and crisis management.

Along with the political cooperation, ENP provide possibilities for deeper trade and economic relations between Georgia and the EU, enhanced cooperation in the field of energy and transport and increased opportunities for greater financial support to the reforms process in Georgia.

Last but not least, the ENP provides opportunities to establish a dialogue, in accordance with the *acquis*, on matters related to the movement of people between the EU and Georgia.

## B. EASTERN PARTNERSHIP

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<sup>43</sup> EU-Georgia European Neighborhood Policy Action Plan, available at [http://ec.europa.eu/world/enp/pdf/action\\_plans/georgia\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/georgia_enp_ap_final_en.pdf)

<sup>44</sup> *Ibid.*

In May 2009, European Union opened Eastern Partnership with Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine. Also the cooperation is designed for the six countries of the region, it acknowledges the principles of differentiation and accountability, i.e. success or failure of one state will not affect on the chances of another state.<sup>45</sup> Up to date, Moldova and Georgia are fully committed to the format.

The Eastern Partnership (the “EaP”) was launched on 7 May 2009 at the Prague Summit as a special Eastern dimension of the ENP, which goes beyond the ENP and foresees a further deepening of relations of the EU with its Eastern neighbours (the Ukraine, Moldova, Georgia, Azerbaijan, Armenia and Belarus). The initiative provides significant incentives and possibilities to achieve a higher degree of partner countries’ integration into the EU through bilateral and multilateral formats of cooperation.

While the bilateral format of the EaP is a key framework for Georgia to deepen its relations with the EU, Georgia is also actively involved in multilateral initiatives related to the promotion of democracy, good governance and stability, economic integration and convergence with EU sectoral policies, energy security and people-to-people contacts.

The Eastern Partnership, along with promoting democracy and good governance, allowed Georgia to start negotiations on the Association Agreement and on the Deep and Comprehensive Free Trade Agreement with the EU.

In the Framework of the Eastern Partnership, Georgia signed Visa Simplification Agreement with the EU that simplified visa application procedures for the citizens of Georgia. Georgia has recently received Visa Liberalization Action Plan.<sup>46</sup> Georgia aims to further liberalize the visa regime with the EU and to ultimately achieve visa-free travel.

The Partnership will also promote democracy and good governance, strengthen energy security, promote sector reform and environment protection, encourage people to people contacts, support economic and social development and offer

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<sup>45</sup> Joint Declaration of Prague Eastern partnership Summit, Prague, May 7, 2009, available at [http://ec.europa.eu/europeaid/where/neighbourhood/eastern\\_partnership/documents/prague\\_summit\\_declaration\\_en.pdf](http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/prague_summit_declaration_en.pdf).

<sup>46</sup> Agreement between European Union and Georgia on the Facilitation of Issuance of Visas, published in the Official Journal of the European Union, February 25, 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:052:0034:0044:EN:PDF>.

additional funding for projects to reduce socio-economic imbalances and increase stability.<sup>47</sup>

### C. ASSOCIATION AGREEMENT BETWEEN EU AND GEORGIA

Prague and Warsaw Declarations affirmed the commitment of closer political and economic convergence between EU and 6 countries (Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine).<sup>48</sup> One of the aspects of closer cooperation is Association Agreement.

On 15 July 2010, negotiations were launched on the EU-Georgia Association Agreement, which will substitute the current PCA and provide for Georgia's full political association to and economic integration into the EU, including the establishment a deep and comprehensive free trade area.<sup>49</sup>

Georgia has also signed a number of other agreements with the EU in 2010, including an agreement on the "Facilitation of Issuance of Visas" on 17 June 2010, the "Readmission of Persons Residing without Authorisation" on 22 November 2010, both agreements entered into force on March 1, 2011; and the "Agreement on Common Aviation Area" on 2 December 2010, which is provisionally applied before its entry into force. In addition, the "Agreement on Mutual Protection of Geographical Indications of Agricultural Products and Other Foodstuff (GIs)" was initialled on 29 July 2010 and was formally signed in 2011.

The main objective of the Association Agreements is to achieve closer political association and gradual economic integration with the EU.

The negotiations on the Deep and Comprehensive Free Trade Area between EU and Georgia started in early 2012. The DCFTA will be an integral part of the Association Agreement.

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<sup>47</sup> Information on Eastern partnership initiative available at [http://www.eeas.europa.eu/eastern/index\\_en.htm](http://www.eeas.europa.eu/eastern/index_en.htm).

<sup>48</sup> Joint Declaration of Prague Eastern partnership Summit, Prague, May 7, 2009, available at [http://ec.europa.eu/europeaid/where/neighbourhood/eastern\\_partnership/documents/prague\\_summit\\_declaration\\_en.pdf](http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/prague_summit_declaration_en.pdf) ; Joint Declaration of Warsaw Eastern partnership Summit, Warsaw, 29-30 September 2011, available at [http://ec.europa.eu/europeaid/where/neighbourhood/eastern\\_partnership/documents/warsaw\\_summit\\_declaration\\_en.pdf](http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/warsaw_summit_declaration_en.pdf).

<sup>49</sup> EU Launches Association Agreement with Armenia, Azerbaijan and Georgia, 15 July, 2010, available at [http://europa.eu/rapid/press-release\\_IP-10-955\\_en.htm](http://europa.eu/rapid/press-release_IP-10-955_en.htm).

Since 1999, Georgia has been a beneficiary of the EU Generalised System of Preferences (“GSP”).<sup>50</sup> In 2005, the EU awarded Georgia GSP+ status, which permits Georgia to export up to 7,200 different product categories to the EU at a zero customs tariff rate thereby promoting Georgian exports. Georgia’s GSP+ status is scheduled for renewal in autumn 2011.

The negotiations on Association Agreement were at the final stage by the October 2012 Parliamentary elections that brought Georgian Dream Coalition into power. Saakashvili’s government has finalized the Association Agreement including the DCFTA. It was announced that the AA would be submitted to the Vilnius Summit for the signature.<sup>51</sup>

However, despite the efforts and the achievements of the Saakashvili’s Government, the signature and ratification of the Association Agreement from the EU is not guaranteed. In March 2013, the European Peoples Party adopted a roadmap for Georgia compliance of which should be a precondition for the ratification of the Association Agreement from the EU member states.<sup>52</sup>

#### D. EU and conflict resolution in Georgia

It should be mentioned that foreign policy, as well as much of the domestic policy of Saakashvili’s Government revolved around the most important goal – restoration of Georgia’s territorial integrity.<sup>53</sup> This priority was highlighted in the National Security Concept,<sup>54</sup> Foreign Relations Strategy<sup>55</sup> as well as in every document negotiated with international organizations including the EU. Georgian Government placed special emphasis on more active EU involvement in resolving the Russian-Georgian conflict.

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<sup>50</sup> The Generalized System of Preferences, information available at [http://ec.europa.eu/taxation\\_customs/customs/customs\\_duties/rules\\_origin/preferential/article\\_78\\_1\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_78_1_en.htm) [The GSP is the system by which industrialized countries offer assistance to economically less developed countries for the promotion and enhancement of their export capabilities].

<sup>51</sup> Minister: Georgia EU complete talks on Association Agreement, April 12, 2013, available at <http://soderkoping.org.ua/page43454.html>

<sup>52</sup> Georgia: EPP adopts conditional roadmap for concluding Association Agreement, March 14, 2013, available at [http://www.epp.eu/sites/default/files/content/press\\_releases/pdf/EPP%2014-03.pdf](http://www.epp.eu/sites/default/files/content/press_releases/pdf/EPP%2014-03.pdf).

<sup>53</sup> See: Information on the conflicts in Abkhazia and Tskinali Region/South Ossetia on the website of the Ministry of Foreign Affairs of Georgia, available at [http://www.mfa.gov.ge/index.php?sec\\_id=552&lang\\_id=GEO](http://www.mfa.gov.ge/index.php?sec_id=552&lang_id=GEO).

<sup>54</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

<sup>55</sup> Georgia’s Foreign Policy Strategy for 2006-2009, available at [http://embassy.mfa.gov.ge/files/-Documents/strategy2006\\_2009.pdf](http://embassy.mfa.gov.ge/files/-Documents/strategy2006_2009.pdf) (in Georgian).

The Georgian government considered that the EU could play a key role in promoting security and stability in Georgia, especially since August 2008, through politically supportive statements, functioning of the EUMM, support and participation in the Geneva discussions and maintenance of a strong EU non-recognition policy of Abkhazia and South Ossetia as independent states.

EU played important role in August 2008, when Russian army crossed the Georgian border and started a large-scale military operation. Due to that war, about 20% of Georgia's territories are occupied by Russia. It has been important that the EU and other members of the international community have recognized the occupation of Georgian territory by the Russian Federation.<sup>56</sup>

EU was the mediator of the Russian-Georgian Ceasefire Agreement of August 12, 2008, exercise effective influence on the Russian Federation to fulfill the norms of international law and the international obligations it has undertaken.<sup>57</sup> In light of the EU's goal of achieving greater engagement and cooperation with Russia, Georgia has been pedaling the importance that the EU-Russian engagement policy should, among other things, facilitate the establishment of a Russian foreign policy of peaceful coexistence with its neighbors and respect for their sovereignty.<sup>58</sup>

In the context of peaceful conflict resolution, EU established Monitoring Mission (EUMM) in Georgia in September 15, 2008 – after the Russian aggression to Georgia. The EUMM monitors compliance by all sides, Georgian, Russian and de facto South Ossetian and Abkhazian forces, compliance with the EU brokered cease-fire agreement of August 12, 2008 and the Agreement on Implementing

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<sup>56</sup> See European Parliament Demand that Russia ends Occupation of Georgian territories, Eurasian Law, November 18, 2011, available at <http://eurasian-law-breaking-news.blogspot.hu/2011/11/european-parliament-demands-russia-to.html> . See also Council of Europe Parliamentary Assembly Resolution The consequences of the war between Georgia and Russia, Doc. 11732 rev., 1 October 2008, available at <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12053&Language=EN>; Council of Europe Parliamentary Assembly Resolution on Humanitarian Consequences of the War between Georgia and Russia, Doc. 11/789, January 12, 2009, available at <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12152&Language=EN> . Resolution 382 on the Situation in Georgia, NATO Parliamentary Assembly, November 16, 2010, available at <http://www.nato-pa.int/Default.asp?SHORTCUT=2245>

<sup>57</sup> August 12, 2008 Ceasefire Agreement signed by President of Georgia Mikheil Saakashvili, President of the Russian Federation Dimitri Medvedev and brokered by the French President Nicolas Sarkozy, text available at [http://mfa.gov.ge/files/557\\_13910\\_582611\\_Agreements.pdf](http://mfa.gov.ge/files/557_13910_582611_Agreements.pdf) .

<sup>58</sup> National Security Concept of Georgia, adopted by the Parliament of Georgia on December 23, 2011, available at <http://www.nsc.gov.ge/files/files/National%20Security%20Concept.pdf>.

Measures of 8 September 2008.<sup>59</sup>

Unfortunately, EUMM is very limited in its activities, as it is not allowed to enter the occupied territories, which has been subject of criticism from the EU.<sup>60</sup> However, EUMM is the only international presence in the conflict zone in Georgia, as Russia has blocked the OSCE Mission and the UN Monitoring Mission after it recognized independence of the two territories - Abkhazia and Tskinali Region/South Ossetia.<sup>61</sup>

The Government of Georgia appreciated the role and importance of having independent monitors present on the spot. International presence serves as some sort of deterrence force and at the same time it minimizes the risk of erosion of the Cease Fire Agreement that obligates the parties to withdraw its military forces to the pre-conflict location. EUMM confirms that the continued presence of the Russian Federation military personnel and equipment in both South Ossetia and Abkhazia represents a violation of this part of the Agreement.<sup>62</sup>

It would be too naïve to believe that the current presence of the EU in Georgia and in the conflict zone in particular, as well as the current level of engagement in conflict resolution related matters could be sufficient for the de-occupation. However, it is true that the careful, long-term engagement could be the only solution of the conflict and the Saakashvili Government negotiated on every word in the Association Agreement as well as the ENP and other documents to ensure more active EU participation in the conflict resolution and de-occupation process.

## E. PEOPLE-TO-PEOPLE RELATIONS AND MOBILITY PARTNERSHIP

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<sup>59</sup> Council Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia, EUMM Georgia, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:248:0026:0031:EN:PDF> ; see also the subsequent decisions on amending and extending the EUMM mandate adopted on August 12, 2010, available at [http://www.eumm.eu/data/2010-2011\\_EUMM\\_%20mandate\\_and\\_%20budget.pdf](http://www.eumm.eu/data/2010-2011_EUMM_%20mandate_and_%20budget.pdf) , adopted on September 12, 2011, available at [http://www.eumm.eu/data/image\\_db\\_innova/GF\\_documents/2011.09.12\\_Council%20Decision%20-%202011-536-CFSP\\_Extension%20of%20EUMM%20mandate.pdf](http://www.eumm.eu/data/image_db_innova/GF_documents/2011.09.12_Council%20Decision%20-%202011-536-CFSP_Extension%20of%20EUMM%20mandate.pdf) and on September 13, 2012 available at [http://www.eumm.eu/data/image\\_db\\_innova/ext\\_EUMM\\_M5.pdf](http://www.eumm.eu/data/image_db_innova/ext_EUMM_M5.pdf)

<sup>60</sup> About EUMM Main Challenges, information available at [http://eumm.eu/en/about\\_eumm](http://eumm.eu/en/about_eumm) .

<sup>61</sup> Russia blocks Georgia's OSCE Mission Extension, CIVIL GEORGIA, December 22, 2008, available at <http://www.civil.ge/eng/article.php?id=20171> ; see also OSCE: Mission in Georgia due to be closed in 2009, December 26, 2008, available at <http://www.sptimes.ru/story/27934>

<sup>62</sup> About EUMM information available at [http://www.eumm.eu/en/about\\_eumm](http://www.eumm.eu/en/about_eumm)



One of the main objectives of the Saakashvili's government was to ensure greater people-to-people contacts with Europe. This would help Georgia's political and economic approximation with the European Union and would also facilitate domestic reforms in the country. Therefore, every agreement and project with the EU has a component that aims at facilitation of cross-border movement of people without prejudice to the need of fight against illegal migration.

As mentioned above, Georgia and EU signed Visa Simplification Agreement<sup>63</sup> and the Readmission Agreement<sup>64</sup> in 2010. Georgia has been taking implementation of the Readmission Agreement very seriously. Determined to move to a next step of cooperation and to start negotiations on visa liberalization, Georgia implemented number of significant domestic reforms in the sphere of migration and border control, eradication of corruption and human trafficking. Despite the reforms implemented at the domestic level, experts were skeptical about Georgia's chances to get visa liberalization Action Plan from the EU, mostly for the political reasons, including potential lack of interest from the EU and internal political and economic challenges of the European Union.<sup>65</sup>

Despite the skepticism, Georgia received visa liberalization Action Plan in February 2013.<sup>66</sup>

If and when entered into force, the Visa Liberalization Agreement will allow Georgian citizens to travel easily to Europe. This type of people-to-people relations has been viewed by the Government of Georgia as a necessary precondition of the mental revolution in Georgia.

### **3. GEORGIA'S RELATIONSHIP WITH THE UNITED STATES OF AMERICA –**

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<sup>63</sup> Agreement between European Union and Georgia on the Facilitation of the Issuance of Visas, 25 February, 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:052:0034:0044:EN:PDF>

<sup>64</sup> Agreement between the European Union and Georgia on the Readmission of Persons Residing without Authorisation, 25 February, 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:052:0047:0065:EN:PDF>

<sup>65</sup> Prospects for Visa Liberalisation between the EU and Georgia: an assessment of Georgia's readiness, Tamara Pataraiia, available at <http://www.jeffersoninst.org/sites/default/files/Georgia%20policy%20paper.pdf>

<sup>66</sup> Commissioner Malström presents Action Plan on Visa Liberalization with Georgia, 25 February, 2013, available at [http://europa.eu/rapid/press-release\\_IP-13-156\\_en.htm](http://europa.eu/rapid/press-release_IP-13-156_en.htm) see also EU Hands Over Visa Liberalisation Action Plan to Georgia, CIVIL GEORGIA, 25 February, 2013, available at <http://www.civil.ge/eng/article.php?id=25786>



## RELATIONSHIP BETWEEN THE STRATEGIC PARTNERS

Since its independence, Georgia enjoyed close relations with the United States that fast developed into a strategic partnership based on mutually shared interests and values. The US has provided immense political, military, financial and humanitarian assistance to Georgia. The United States has become one of the main international guarantors of Georgia's sovereignty. The US reiterated strong support of the territorial integrity of Georgia and its Euro Atlantic integration.

The cooperation between Georgia and the US is mutual, keeping in mind the size, influence and capabilities of the two countries. Georgia is a very strong supporter and an ally of the United States in the region; it provides military and political support to the coalitions led by the United States. Georgian units, trained under US assistance programs, successfully participate in the NATO International Security Assistance Force in Afghanistan. Georgia and the US also closely and successfully cooperate in the fight against nuclear smuggling, terrorism and transnational crime.

The U.S. interest in Georgia, as of a national security partner, have increased after 11 September 2001 as Georgia joined the international anti-terrorist coalition. Strategic partnership has increased further since the election of President Saakashvili, who is seen by the United States as a strong and democratic ally.

Relationships between the United States and Georgia have been strong over the years; however, the support of the George W. Bush's administration was particularly remarkable. It would be wrong to link this to the Republican versus Democratic administrations; but it should be viewed in within the framework of the policy of Freedom Agenda of the President Bush's Administration that linked the US national Security to the spread of democracy worldwide.

Almost Immediately after the Rose Revolution, in December 2003, Secretary of Defense Donald Rumsfeld visited Georgia, while Secretary of State Collin Powell came to his first official visit and attended the inauguration of President Saakashvili in January 2004 – two months after the Rose Revolutions. Georgia hosted number of visits at the level of Secretary of State, Vice president and high-ranking congressional leaders.<sup>67</sup>

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<sup>67</sup> Relations Between Georgia and the United States, available at [http://www.mfa.gov.ge/index.php?sec\\_id=268&lang\\_id=ENG](http://www.mfa.gov.ge/index.php?sec_id=268&lang_id=ENG)

After less than a year and half of the Rose Revolution, President George W. Bush paid a 2-day visit to Georgia. Although the visit was organized as a part of the President Bush's European tour, it was a remarkable political event for Georgia and for President Saakashvili. Emphasizing on Georgia's democratic reforms, President Bush said "I am proud to stand beside a president who has shown such spirit, determination and leadership in the cause of freedom."<sup>68</sup> "We are living in historic times when freedom is advancing, from the Black Sea to the Caspian, and to the Persian Gulf and beyond," Mr. Bush continued.<sup>69</sup>

President Bush appraised the courage of Georgian people to build a free and prosperous country for the future generations and promised the US support in this difficult endeavor. Probably more importantly, Georgian Government and people heard the most expected promise from the President of the United States of America: Georgia's territorial integrity must be respected by all nations – a message addressed primarily to the Russian President Vladimir Putin whom President Bush met a day before he came to Tbilisi.<sup>70</sup>

This visit was viewed by the Georgian authorities and many experts around the globe as a signal that the United States of America was making assertions of its interest in the region. Some even thought that through considerable financial and military assistance, Washington pursued its economic, political and military ambitions in Eurasia through Georgia.<sup>71</sup>

President Saakashvili assessed the visit as a "great political victory" for Georgia.<sup>72</sup>

The United States continued providing political and other types of support to Georgia. President George W. Bush hosted President Saakashvili in the White House

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<sup>68</sup> President of the United States of America George W. Bush visits Georgia, May 9-10, 2005, text of speech reprinted and available at <http://news.bbc.co.uk/2/hi/europe/4534267.stm>

<sup>69</sup> *ibid.*

<sup>70</sup> Bush Encourages Georgia with a Warn to Russia, May 11, 2005, New York Times, available at [http://www.nytimes.com/2005/05/11/international/europe/11prexy.html?\\_r=0](http://www.nytimes.com/2005/05/11/international/europe/11prexy.html?_r=0)

<sup>71</sup> Bush visit to Georgia Increases Tensions with Putin Government, by Simon Whelan, May 18, 2005, available at <http://www.wsws.org/en/articles/2005/05/geor-m18.html>

<sup>72</sup> Bush Visit to Georgia is a "Great Political Victory" – Saakashvili, by Molly Corso, May 10, 2005, available at <http://www.eurasianet.org/departments/insight/articles/eav051105.shtml>

twice, first in July 2006 and second in March 2008.<sup>73</sup>

Partnership between Georgia and the United States has remained strong under the Obama administration. The U.S. Vice President Joseph Biden renewed the United States' commitment to Georgia during an official visit to Tbilisi on in July 2009. As part of his visit, the U.S. Vice President gave a speech before the Georgian Parliament, met with the opposition leaders and members of civil society and held an informal discussion with internally displaced children at Tbilisi's Youth Palace.

Hillary Clinton, the U.S. Secretary of State, also visited Tbilisi in July 2010. During a joint press-conference with President Saakashvili, Secretary Clinton declared that she arrived in Georgia to deliver "a clear message" from President Obama, that the United States "is steadfast in its commitment to Georgia's sovereignty and territorial integrity".<sup>74</sup> Secretary Clinton specifically called on Russia to abide by its commitments under the August 2008 ceasefire agreement. She also thanked Georgia for its significant contribution to the NATO forces in Afghanistan and added that this contribution showed evidence of Georgia's "diligent movement towards meeting the requirements" for NATO membership.<sup>75</sup>

In addition, in November 2010, an official meeting was held between President Saakashvili and President Obama during the NATO Summit in Lisbon, Portugal, at which the two leaders discussed the strengthening of the strategic partnership between Georgia and the United States, expansion of the bilateral cooperation and issues of regional security.

On 14 January 2011, the President of Georgia and the President of the United States met again in Washington DC when the two leaders spoke about details of cooperation in matters of the economy and trade, as well as security issues, including the on-going process of the Afghan peacekeeping operation. President Obama underlined Georgia's role in NATO's ISAF and reaffirmed his firm political support for Georgia. In response, President Saakashvili expressed his gratitude to President Obama for the continued support Georgia receives from the United States.<sup>76</sup>

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<sup>73</sup> Bush Pledges Support to Georgia, CIVIL GEORGIA, July 6, 2006, available at <http://www.civil.ge/eng/article.php?id=12967> and Bush Gives Unwavering Support to Georgia NATO Drive, CIVIL GEORGIA, 19 March, 2008, available at <http://www.civil.ge/eng/article.php?id=17396>

<sup>74</sup> Secretary Clinton Joint Press Conference with Georgian President, July 6, 2010, videofile available at <http://www.youtube.com/watch?v=fGfECXI0dIQ>.

<sup>75</sup> *Ibid.*

<sup>76</sup> President Obama's Discussion with President Mikheil Saakashvili of Georgia, January 14, 2011, available at <http://www.whitehouse.gov/the-press-office/2011/01/14/president-obama-s-discussion-president-mikheil-saakashvili-georgia>.

President Barack Obama hosted President Saakashvili in the White House on January 30, 2012.<sup>77</sup>

#### A. US-GEORGIA COOPERATION IN DEFENSE AND SECURITY MATTERS

The United States contributed to the strengthening of Georgia's defence capabilities through the funding and implementation of the Georgia Train and Equip Programme. Georgian troops participated in Operation Iraqi Freedom in 2003-2008. Initially, there were 50 Georgian servicemen deployed in Iraq. In 2007, Georgian participation was increased up to one brigade (2000 servicemen), making Georgia the second largest per capita contributor to the operation.

Support from the United States on the issue of the de-occupation of the Georgian territories has been important for Georgia.

American support was critical if not decisive in halting Russian aggression and the Russian army advancement towards the capital Tbilisi. President Bush called the Russian actions "invasion of a sovereign neighboring state that threatens the democratic government elected by the people."<sup>78</sup> Meanwhile, according to CNN, Vice President Dick Cheney talked to Georgian President Mikheil Saakashvili telling him that Russia's aggression against Georgia "must not go unanswered."<sup>79</sup>

Georgian government believes that the US involvement in was critical for avoiding further escalation, including potential government change in Georgia in August 2008.

In particular, the \$1 billion in aid provided after the 2008 Russian aggression was especially significant to the Georgian people. Projects within the framework of the US Millennium Challenge Corporation have assisted in strengthening democratic institutions, developing infrastructure, and advancing humanitarian projects. Educational and scientific programs are also important as they promote education and raise the qualification levels of Georgian students and scientists.

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<sup>77</sup> President Obama meets with Georgian President Mikheil Saakashvili, <http://www.whitehouse.gov/blog/2012/02/03/president-obama-meets-georgian-president-mikheil-saakashvili>

<sup>78</sup> Russia Must Reverse the Course in Georgia: Bush, AFP, August 12, 2008, available at <http://afp.google.com/article/ALeqM5i2LdnLHTyJgB2Ng8VSQyMQ3eMVrw>

<sup>79</sup> Bush, Cheney Signal Support for Georgia, available at <http://www.cnn.com/2008/POLITICS/08/10/us.russia.georgia/>

Georgian defense capabilities have been significantly strengthened through US assistance programs. Georgia is interested in further deepening cooperation in this area.

## B. THE USA'S SUPPORT TO GEORGIA IN ACHIEVING NATO MEMBERSHIP

The United States has been one of the most vocal advocates of Georgia's NATO aspirations. On 9 April 2007, President Bush signed into law the NATO Freedom Consolidated Act 2007, confirming Georgia's compliance with the 1994 U.S. law on NATO membership. On 13 February 2008, the U.S. Senate Foreign Relations Committee unanimously approved a resolution in favour of extending a MAP to Georgia.

Unfortunately, despite the strong US support, Georgia could not manage to receive MAP in Bucharest Summit in 2008.

## C. US-GEORGIA CHARTER ON STRATEGIC PARTNERSHIP

Georgia continues to deepen its strategic partnership with the United States. This is a fact reflected in the US-Georgia Charter on Strategic Partnership signed in January 2009.<sup>80</sup>

The US-Georgia Strategic Partnership Commission, a forum for the high level political consultations, was established under the Charter. Along with the meetings on working group levels, so called Omnibus meetings are held annually with the participation of Prime Minister from Georgian side and Secretary of State from the US side. By focusing on the implementing of concrete decisions by working groups, the concluding documents are prepared after the Omnibus meetings, which aims at advancing the development of mutual relations in defence and security; economy, trade, and energy, democracy; and intercultural exchanges.

Under the framework of the Charter, the Omnibus meetings were held in Washington, DC, co-chaired by U.S. Secretary of State Hillary R. Clinton and Prime Minister Nika Gilauri, in June 2009 and October 2010, with a number of high-level visits from the United States to Georgia in between on matters relating

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<sup>80</sup> The United States-Georgia Charter on Strategic Partnership, January 9, 2009, available at <http://www.state.gov/p/eur/rls/or/121029.htm>

to each of the four areas of bilateral cooperation. The first meeting of the Strategic Partnership Commission, held on June 22, 2009, launched four bilateral working groups on priority areas identified in the Charter.

The US-Georgia Charter on strategic Partnership is a significant step forward in the relationships between the two states. The United States and Georgia have strengthened their mutual cooperation based on U.S. support for Georgia's sovereignty and territorial integrity; on its one, Georgia continues to respect its commitment to further democratic and economic reforms.

#### D. ECONOMIC AND TRADE RELATIONS

It should be mentioned from the outset that the political and military cooperation between the United States and Georgia has been more active than the economic and trade relations. Reasons could be anything from lack of interest from the US investors due to the small market of Georgia to low cognizance of the country's economic and trade potential among the US business circles.

However, the Georgian export to the US has increased more than 10 times from around 15 million USD in 2000 to around 225 million USD in 2012.<sup>81</sup> The same trend is showed in US import in Georgia - 65 million USD in 2000 to 220 million USD in 2012.<sup>82</sup>

In May 2004, Georgia was among 16 countries nominated as a potential recipient of funding from the Millennium Challenge Corporation ("MCC") initiative.<sup>83</sup> The MCC is an independent corporation that offers grants and technical assistance to developing countries committed to good governance, economic freedom and development. In August 2005, Georgia was awarded a U.S.\$295 million grant to be funded over five years under the initiative.

On 12 September 2005, Georgia and the United States signed the Millennium Challenge Compact, which was ratified by the Parliament on 28 October 2005 and came into force on 7 April 2006. On 20 November 2008, an amendment

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<sup>81</sup> External Trade, Georgian Export by Country, GeoStat, available at [http://www.geostat.ge/index.php?action=page&p\\_id=137&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=137&lang=eng)

<sup>82</sup> External Trade, Georgian Import by Country, available at [http://www.geostat.ge/index.php?action=page&p\\_id=137&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=137&lang=eng)

<sup>83</sup> Georgia Compact, information at <http://www.mcc.gov/pages/countries/program/georgia-compact>

granting an additional U.S.\$100 million in U.S. Government development assistance under the MCC was signed. Projects aimed at the reduction of poverty through economic growth and infrastructure, energy and agribusiness rehabilitation and development, have been successfully implemented in Georgia under the MCC. The MCC entered its fifth and final phase in April 2011 and was completed in 2012.

On January 5, 2011, the MCC Board of Directors selected Georgia as eligible to develop proposals for a second MCC Compact. The Board's decision was contingent on good policy performance, development of projects promoting economic growth, elimination of poverty and rehabilitation of infrastructure, which eventually resulted in the successful completion of the first compact. The process is ongoing.

In the aftermath of the 2008 Russian military aggression, the U.S. provided a U.S.\$1 billion aid package for Georgia to meet the country's "pressing humanitarian need" and "to facilitate its economic reconstruction". The funds have been used to finance projects that are aimed at supporting the IDPs, promoting democratic reforms and the rule of law, and stimulating economic growth and rebuilding the infrastructure. The United States has provided significant additional financial support to Georgia.

The United States also supports Georgia's efforts in diversifying energy supply routes for Europe. As a part of its U.S.\$1 billion aid package granted to Georgia following the 2008 Russia-Georgia war, the United States and Georgia signed the Assistance Agreement in February 2010 pursuant to which the United States pledged to invest up to U.S.\$124 million to enhance Georgia's energy infrastructure, including funding to promote hydropower investment, improve natural gas infrastructure and improve electricity transmission facilities. Furthermore, as a part of the U.S.-Georgian Strategic Partnership Charter, the two countries have agreed to enhance their bilateral cooperation in energy security.

Georgian authorities have intensified their efforts in attracting investors from the US during the last years of Saakashvili's government. In 2012, an American tycoon Donald Trump launched a real estate development project in Batumi that reportedly was worth of 100 million USD.<sup>84</sup>

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<sup>84</sup> Donal Trump May Invest 100 million in Georgia Resort Tower, by Helena Bedwell, April 23, 2012, available at <http://www.bloomberg.com/news/2012-04-23/donald-trump-may-invest-100-million-in-georgia-resort-tower.html>



The deepening of economic and trade relations with the United States, attracting US investments, and growing Georgian exports to the US are important for Georgia. The preferential trade regime with the US advantages import tariffs to Georgia.

Notably, acknowledging the importance of increased investment to economic growth and development, the United States and Georgia intend to pursue an Enhanced Bilateral Investment Treaty, to expand Georgian access to the General System of Preferences, and to explore the possibility of a Free-Trade Agreement. Overall, Charter serves as a robust framework for carrying Georgia's democratic development forward to achieving its goals, including its membership into European and Euro-Atlantic structures. Georgian government aimed at securing Free Trade Agreement with the United States, which would boost the economic relations between the two states. The prospects of starting negotiations on the US – Georgia free trade was announced by President Obama during President Saakashvili's official visit to the White House in January 2012.<sup>85</sup> At the meeting, President Obama agreed to launch a high-level dialogue about the potential to "increase bilateral trade and investment, ranging from an enhanced trade and investment framework and investment agreements to a free trade agreement."<sup>86</sup>

#### **4. RELATIONSHIPS WITH AND WITHIN THE UNITED NATIONS**

Georgia has been a member of the UN since 31 July 1992 and is a member of several UN bodies and specialised agencies. Georgia participates in UN activities in the areas of security, human rights, economic cooperation and environmental protection. Georgia is seeking to become a member of the Human Rights Council in 2011-2014.

The UN Observer Mission (UNOMIG) in Georgia was established in 1993 by the UN Security Council Resolution No. 858 to monitor and report on the situation and development in Abkhazia, Georgia. Headquarters of UNOMIG were located in Tbilisi. UNOMIG terminated its activities in 2009, as a result of Russia's veto on the continuation of its mandate. Since then, UN has been unable to establish presence in the occupied territories of Georgia, however a number of UN

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<sup>85</sup> President Obama meets with Georgian President Mikheil Saakashvili, available at <http://www.whitehouse.gov/blog/2012/02/03/president-obama-meets-georgian-president-mikheil-saakashvili>

<sup>86</sup> *Ibid.*



programmes and specialized agencies have presence in Georgia (UNDP, UNHCR, OHCHR, etc.).

UN Security Council maintains "Situation in Georgia" as one of the agenda items, however has been unable to adopt a resolution on Georgia since August 2008 armed conflict. General Assembly of the United Nations has adopted annual resolutions on the status of the Internally Displaced Persons from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia in 2008, 2009 and 2010.

United Nations is represented in the Geneva Discussions and the Incident Prevention and Response Mechanisms ("IPRMs") as one of the co-chairs, together with the EU and the OSCE.

## **5. ECONOMIC INTEGRATION WITH THE WORLD: THE WORLD TRADE ORGANIZATION**

Georgia was the first former Soviet state (except the Baltics) to join the WTO. It joined the WTO on 14 June 2000 and immediately entered a round of multilateral trade negotiations, as well as bilateral negotiations with the other member states

After signing the Protocol on Accession to the Marrakesh Agreement establishing the WTO, Georgia joined several WTO agreements and made commitments under the WTO Annexes to this Protocol. Georgia is therefore bound by the maximum customs tariff rates on imports, subject to special consent of the WTO members. Since its accession to the WTO in 2000, Georgia has been working on reducing tariffs and non-tariff barriers to trade. In 2006, the Government abolished import tariffs on almost 90% of goods.

Georgia has most-favoured-nation trading relationships with all WTO members and has GSP arrangements with all EU countries (GSP+ status), Japan, Canada, Norway, the United States and Switzerland. In 2008, Georgia's GSP+ privileges granted by Turkey were replaced by a free trade agreement between Georgia and Turkey, pursuant to which customs tariffs on industrial products have been fully eliminated, although a number of agricultural products are excluded by both parties.

In 2007, Georgia and the United States signed a Trade and Investment Framework Agreement, and in January 2009 Georgia signed the Georgia-U.S.

Charter on Strategic Partnership, which, inter alia covers issues of trade between the two countries.

In addition, although Georgia terminated its membership in the Commonwealth of Independent States (CIS) in August 2009, Georgia continues to maintain bilateral free-trade agreements with each of the remaining members of the CIS (other than Russia).

## **6. CONCLUSIONS: WHY AND HOW**

Under President Mikheil Saakashvili's United National Movement government, Georgia made tremendous progress in her integration into the Euro-Atlantic family. The goal has not yet been achieved as its realization will require unequivocal determination of the future governments.

Georgia's achievement in its Euro-Atlantic integration should be viewed in the context of the three important developments both domestically and internationally: 1) Georgia implemented significant reforms at the domestic level and has become a true example for others in the region, 2) In 2004, when Saakashvili took the office, Georgia had a great partner in the White House; the President Bush's administration in the USA announced the foreign policy doctrine of the Freedom Agenda that included promotion of democracies in the world; 3) As most people in the Saakashvili's team, including himself, had western education and/or work experience, they had strong personal connections with the United States and the Europe. All these factors contributed to Georgia's greater Euro-Atlantic integration.

# Chapter 3 Economic Modernization of Georgia

## 1. INTRODUCTION

After the collapse of the Soviet Union, Georgian economy, which was one of the most successful during the Soviet era, simply disintegrated. In the early 1990s and afterword, Georgia found itself in the deep economic crisis. In 1989, the GDP of the Georgian Soviet Socialist Republic was around 3,400 USD per capita. This was 65% of the GDP of the Russian Soviet Federal Socialist Republic and 45% of that of Estonian Soviet Socialist Republic.

During that time, Georgian economy was based on the textile industry, agriculture, heavy metallurgy and tourism. Tourism was really thriving as Georgia received around 11 million tourists per year, including 250,000 tourists from the countries other than the Soviet Union.

Though Georgia was one of the richest republics in the Soviet Union, its economy was largely colonial. All goods and services were produced solely for the Soviet Union's market. Georgia produced 90% of tea consumed in the Soviet Union, 98% of citrus fruits, 60% of wines, and a large share of fruits and vegetables.<sup>87</sup>

Georgian industries also produced machinery and chemicals only for the Soviet market. All the production was of low quality and the main goal was to produce quantity.

In 1995 Georgia's GDP has lost many sectors and stood at 20 % of that of 1989.<sup>88</sup> The drastic economic downturn had its reasons. First and foremost, the chaos in the post Soviet countries affected the economic relationships and structures in the former Soviet republics. In less than one year after the independence from the Soviet Union, Georgia found itself in the middle of the two wars with the Russian

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<sup>87</sup> Economic Reforms in Georgia: their relevance for Africa?, by Gia Jandieri, Brenthurst Discussion Paper, publ. by Brenthurst Foundation and E Oppenheimer & Son (Pty) Ltd, September 2009.

<sup>88</sup> Georgia: Economy, GlobalEdge, Michigan State University, Broad College of Business, available at <http://globaledge.msu.edu/countries/georgia/economy> .

army in the territory of the autonomous republic of Abkhazia (Western Georgia) and the autonomous district of South Ossetia (Eastern Georgia). In addition, bloody civil war in the capital Tbilisi and number of unrests in the regions devastated the country.

In 1995 national currency Lari was introduced. In 1996, the government managed, first time since independence to adopt the State Budget.<sup>89</sup> Before that, transitional currency was introduced in early 1990s; However, due to the lack of the monetary and fiscal discipline and widespread corruption had ruined the transitional currency. Inflation in 1993 stood at 3000%, highest ever experienced in the 20<sup>th</sup> Century. Introduction of a new national currency in 1995 has brought a monetary stability.<sup>90</sup>

Eduard Shevardnadze, former Minister of Foreign Affairs of the Soviet Union, was invited from Moscow to rule already devastated country in 1992. Shevardnadze brought relative order, though the control over Abkhazia and South Ossetia has been lost and the country received around 350.000 internally displaced persons (IDPs) as a result of the ethnic cleansing in those regions.

By 1996, the state of economy was much better compared to the previous years as the GDP growth reached to 9% per year – the highest since the independence from the Soviet Union.<sup>91</sup> However, it should be mentioned that the economic rebound was a result of the construction of Baku-Supsa (a small black sea port in Georgia) pipeline. The rebound had been stopped by the crisis in Russia in 1998, which sent the Georgian economy back into recession.

Due to the rampant corruption and extremely high portion of the shadow economy, Georgia reached its lowest level of economic activities in early 2000s.<sup>92</sup> President Shevardnadze's closest circles were deep in corruption. Rampant corruption, loose state institutions and shadow economy put Georgia on the verge of being declared a failed state by 2003.

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<sup>89</sup> Economic Reforms in Georgia: their relevance for Africa?, by Gia Jandieri, Brenthurst Discussion Paper, publ. by Brenthurst Foundation and E Oppenheimer & Son (Pty) Ltd, September 2009.

<sup>90</sup> Fight against Corruption in Public Service: Chronicling Georgia's Reforms, World Bank ed., 2012.

<sup>91</sup> *Ibid.*

<sup>92</sup> Economic Reforms in Georgia: their relevance for Africa?, by Gia Jandieri, Brenthurst Discussion Paper, publ. by Brenthurst Foundation and E Oppenheimer & Son (Pty) Ltd, September 2009.

This state of affairs was inherited by Mikhei Saakashvili and his Government in 2004. Georgian people demanded urgent reforms from the new Government.

Therefore, the government had no choice but to immediately launch wide scale reforms, including in the field of economy. In the economic sector, the main aim of the government was to change the business climate and make it much friendlier for Georgian entrepreneurs and foreign investments. The increased economic activity and higher inflows of capital that this brought resulted in higher economic growth and a dramatic reduction in poverty levels.

The economic reforms of the Saakashvili's Government were impressive. According to the Economist, "the way in which Georgia turned its economy around since 2004 has been remarkable".<sup>93</sup>

Major lines of the economic reforms are described below:

## **2. DEREGULATION OF ECONOMY AND INTRODUCTION OF LIBERAL TRADE POLICY**

One of the major economic policies of the Saakashvili's Government had been deregulation of the economy.

By limiting the regulatory burden, which suffocated economic growth in earlier times, the Government has created a more attractive economic environment for investors. Before the reform, the number of permissions and licenses applied to business exceeded a thousand, and establishing even a simple business wasted huge amounts of time and required a huge amount of documentation, which created fertile ground for corruption.

In 2005, the Parliament of Georgia adopted a new law on Licenses and Permits. The new law introduced new approach and 70% of the business-related licenses and 90% of the permits that were once necessary for businesses to operate have been abolished. As a result number of licenses and permits decreased from 944

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<sup>93</sup> Georgia cannot live on from exports alone, The Economist, November 18, 2010, available at [http://www.economist.com/blogs/easternapproaches/2010/11/georgias\\_economy](http://www.economist.com/blogs/easternapproaches/2010/11/georgias_economy).

to 150.<sup>94</sup> Exclusive licenses have been abolished and a strict all-inclusive approach has been implemented.

A one-stop shop approach has been launched to expedite all business-related administrative procedures and the principle of “silence is consent” has been introduced (for the details see Chapter 4 Public Administration Reform). The latter implied that the authorities were obliged to respond to the request of the license timely, within the timeframe established under the law. In case of the failure to respond, the applicant would consider the silence as consent.

Deregulation of the economy implied reduction of number of licenses and permits.

Wide scale of reforms was introduced in order to wisely deregulate use of natural resources. On the one hand, Government introduced stronger institutional mechanisms necessary for effective control of the use of natural resources and protecting the environment; on the other hand, the new law allowed the government to issue long-term (up to 89 years) licenses for the exploitation of natural resources (including forests and minerals) that could be sold or granted to other persons or companies.

Georgia also abolished state regulations for new energy companies and the regulations for energy exports and imports. The private companies involved were very successful in improving rates of payment for services by consumers, which had always been a problem while the government owned the energy distribution and generation companies. Moreover, in a few years after the reforms, Georgia became a net electricity exporter (details see below).

As early as in 2005, the anti-trust regulations were abolished and the new law on Fair Trade was adopted, which prohibited the Government to take measures that would create obstacles to competition and free trade.

In 2010, citizens and companies from the Organization for Economic Cooperation and Development (OECD) are authorized to participate in the securities and credits market in Georgia without a special permission. In

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<sup>94</sup> Economic Reforms in Georgia: their relevance for Africa?, by Gia Jandieri, Brenthurst Discussion Paper, publ. by Brenthurst Foundation and E Oppenheimer & Son (Pty) Ltd, September 2009.

addition, banks from the OECD countries can open affiliates and/or branches in Georgia without the need of additional licensing by the Georgian authorities. Recognition of EU and OECD technical regulations for internal markets as well as export and import procedures have been substantially simplified.

Another important change was virtual deregulation of the labor market. The country adopted an open-door policy for foreign labor with no real restrictions on entry, especially for the citizens of OECD countries.<sup>95</sup> In addition, a new labor code was adopted in 2006, which established a new labor relationship between employer and employee. No cost of hiring and a very low cost of firing employees made business more flexible and decreased labor costs. All relations between employer and employee – working hours, number of holidays, vacation time, and so on – are based on a contract. The elimination of the social (wages) tax continued the process that made Georgia a leader in this area.

Georgia has been a member of the WTO since 2000. It has one of the most liberal trade regimes and is highly committed to providing the best trade and transit opportunities to its partner countries. Georgia enjoys free trade regimes with all its regional trade partners and is pursuing international free-trade agreements with the rest of the world.

In the frameworks of the liberal trade regime, Georgia has 0% customs tariffs on 95% of goods. Plus, Georgia has no quantitative restrictions on export and import; it has no export, re-export, or transit tariffs.

As a result of deregulation and simplified trade procedures, the trade turnover increased on average by 30% annually and exports increased 3.4 times between 2003 and 2009.<sup>96</sup>

In order to attract foreign direct investment, simple, straightforward business regulations - including, for example, the ability for a business to be registered in just two days and for property to be registered in three days were introduced; now the property registration takes just one day (for the property and business registration procedures see Chapter 4 Public Administration Reform).

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<sup>95</sup> Note: the Government of Prime Ministre Bidzina Ivanishvili announced the changes in the open-door policy. It appears that the visa regulations will be strictened and the number of countries whose citizens can travel to Georgia without visa will be reduced.

<sup>96</sup> Information and statistics are taken from the Georgian Statistics Agency GeoStat; available at [http://www.geostat.ge/index.php?action=page&p\\_id=137&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=137&lang=eng) .

Today, Georgia has one of the best systems of property registration in the world.<sup>97</sup> Foreign investors enjoy equal rights with respect to ownership of real estate, businesses, land, and other assets. Also, there are no restrictions on foreign investors repatriating capital.

Investment protection agreements known as Bilateral Investment Treaties or BITs are in place with more than 30 countries, and a further dozens are being negotiated.

Two “free industrial zones” are established and operating, offering investors the most favorable business environment.

Two “free tourism zones” offer investors favorable conditions for investment in hotel industry. Companies are not subject to tariff regulations, with the exception of natural monopolies.

As a result of the reforms, in recent years, Georgia has received substantial levels of FDI. In 2007, FDI accounted for 20% of the country’s GDP. Between 2004-2009, cumulative FDI amounted to 59% of GDP.

Georgia’s foreign direct investment is hugely diversified both in terms of origin and target sector.

### **3. AGGRESSIVE PRIVATIZATION POLICY**

As mentioned above, Georgia had fairly well developed industry sector in the Soviet times. Almost immediately after the collapse of the Soviet Union up to 1800 plants and factories stopped operation. No doubt, it caused economic stagnation and unemployment in the country.

The government had to deal with this problem. Therefore, it started the privatization process. The society was used to the state owned property and

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<sup>97</sup> Doing Business 2013 Smarter Regulations for Small and Medium-Sized Enterprises, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf>



state planned economy, therefore, privatization process was unpopular in Georgia and most of the plants and factories remained in the ownership of the Government throughout the 1990s.

Although the process started in early 1990s, it achieved a certain level of breakthrough after 1998. However, the Bankruptcy Law adopted in 1997 created further obstacles to the privatization as it had the result of prolonging the life of the state factories and protection of the management. This policy brought a devastating effect on the economy.<sup>98</sup> As a result, at the end of the 1990s the government had failed totally to privatize state-owned industrial companies.

The slow and inefficient privatization process affected to the land as well. All urban land remained in the state ownership, while only 30% of the rural land was privatized.<sup>99</sup>

A massive, successful program to privatize under-performing state-owned assets has been implemented by the Saakashvili's Government. Since 2003 to 2011, 4 280 state assets, including but not limited to the factories and plants, have been privatized, earning the Government a total of \$1.60 billion.

As a result, the performance of the companies and the quality of the services delivered to the Georgian people have improved dramatically. Generally the Government does not subsidize any sector of the economy.

#### **4. TAXATION POLICY/REFORMS OF TAX AND CUSTOMS**

Shevardnadze's Government totally failed to establish fiscal discipline and transparency in the country. Due to the rampant corruption in public sector and large portion of shadow economy (about 70-80% according to the experts and 55% according to the official statistics),<sup>100</sup> paying taxes became irrational in Georgia.

By 2003, there have been 22 different taxes in Georgia and the official tax burden was around 45% and even up to 70% in some areas. Though, the tax revenues never

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<sup>98</sup> Economic Reforms in Georgia: their relevance for Africa?, by Gia Jandieri, Brenthurst Discussion Paper, publ. by Brenthurst Foundation and E Oppenheimer & Son (Pty) Ltd, September 2009.

<sup>99</sup> *Ibid.*

<sup>100</sup> *Note: the figures are taken from Economic Reforms in Georgia: their relevance for Africa?, Ibid.*

exceeded 20% of the GDP. In 2003 (the year in which economic growth reached its highest level of 13%) total tax revenue was estimated at 700 million GEL, while GDP was 8.4 billion GEL.<sup>101</sup>

Tax reform has been challenging and time consuming. It was implemented in multiple phases. The main idea behind the reform was providing customer friendly, clear and transparent regulations that would help businesses to develop and minimize the risk of corruption.

To enhance Georgia's investment and business Climate, the Government has dramatically overhauled its tax system. Georgia's taxation system is designed to be highly attractive for the business community. Taxes in Georgia are low and flat. There are only six taxes rates, of which five (Personal Income Tax, Corporate Income Tax, Value Added Tax, Excise Tax, and Import Tax) are statewide, and one (Property Tax) is a local tax. There are no capital gains, inheritance, wealth, property transfer, social, branch remittance, or other taxes in Georgia.

The income tax rate is a flat 20 percent. There is no other tax on income. There are no limitations on repatriation of capital.

As a result of the legislative and structural changes there are 6 types of taxes in Georgia. Moreover,

- Corporate income tax reduced from 20 to 15 %
- Payroll taxes (PIT and social tax) merged into one and reduced from 53% to 20 %;
- Tax rates for dividends and interest payments reduced from 10% to 5%.
- Capital gain tax has been abolished
- Wealth tax, inheritance tax abolished
- Import tax had been reduced from 20 to 12% and abolished in the most cases

Foreign source income of individuals is fully exempted and is not taxable. At the same time only those with annual income of 25,000 USD or more pay property tax. The property tax itself is 0.3 – 0.8% of the property value.

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<sup>101</sup> *Ibid.*

The new Tax Code introduced special regimes for small (with income less than GEL 100, 000 GEL) and micro (with income less than to 30 000 GEL) businesses. Small businesses are taxed with one single tax of 3% to 5% tax rate while micro businesses are tax-exempt.

Georgian tax legislation provides possibility for free warehouse companies to operate free from corporate and income tax. The idea derives from the determination of the Government to promote Georgia as a transportation and logistic hub of the region. Supply of goods by a free warehouse company to a VAT payer in a free warehouse is exempted from the VAT.

Any company is entitled to establish a Free Industrial Zone if it aims to export the produced goods abroad. Free Industrial Zone is exempt from corporate tax, income tax, payroll tax, interest and dividend tax and property tax.

Along with the legislative easing, important structural reforms were introduced. For instance, in 2006, the Tax department and the customs department were merged in one unified Revenue Service under the Ministry of Finance.

The new Revenue Service provides most up-to-date services to the customers. Due to the electronic services and simplified procedures tax compliance costs have reduced. Electronic filing system was implemented in 2009 and all declarations and invoices are available in electronic forms.

The Revenue Service prepared a Pocket Tax Book, which contains information, based on taxation law and practice in force starting as of January 2011 and covers all the main aspects of the tax system in Georgia.

Customs Clearance Zone, GEZI, was established as a part of the reform. GEZI works 24/7 and goods can be cleared in 15 minutes without brokers or illegal payments. Before the reform, at least 2 weeks was necessary for the clearance; customer had to have a broker, agent or declarant to help navigate in the maze of procedures. Paying bribes was almost a rule.

According to 2009 tax misery and reform index, released by Forbes Business and Financial News, Georgia is the fourth least tax burden country after Qatar, UAE and Hong Kong.<sup>102</sup>

The tax collection has grown from 12 % in 2003 to 25 % in 2011. In 2003 the Georgian authorities were able to collect 250 million USD in taxes while 2012 around 4 billion had been collected.

## **5. INFRASTRUCTURE**

In 2004, Georgia's infrastructure was in a state of collapse. Since then, the government has invested heavily in rehabilitating and expanding the country's infrastructure as a platform for effective development.

### **A. TRANSPORT INFRASTRUCTURE**

Georgian Government aimed at transforming Georgia from a simple transit route into a transport and communications hub in the region.

For this end, over 33% of Georgia's road network, and more than 115 bridges, have been repaired or completely rebuilt between 2004 and 2010. The construction of large part of the East-West highway traversing the entire country has been completed.

Overall, more than 225 kilometers (about 14%) of Georgia's railway network and 20 railway bridges have been repaired or completely rebuilt.

In 2007, new international airport terminals were constructed in Tbilisi and Batumi (tourist destination in Autonomous Republic of Adjara on the Black Sea coats of western Georgia). The number of passengers travelling through Georgian airports more than doubled—from 419 000 people in 2004, to almost one million in 2010.

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<sup>102</sup> 2009 Tax Misery and Reform Index, March 4, 2009, Forbes, available at <http://www.forbes.com/global/2009/0413/034-tax-misery-reform-index.html> .

A railway connection between Georgia and Turkey is being built, thus creating both a passenger and cargo link between Europe and Central Asia.

The Black Sea port of Poti (Georgia's largest port) has recently increased its capacity by constructing an additional cargo terminal (30 000 TEU) and installing new equipment; That has doubled container processing capacity.

In 2008 a new port specifically designed for the processing of crude oil was constructed in Kulevi, on the Black Sea coast.

In 2011, president Saakashvili announced that a new modern city of Lazika was going to be built on the black sea coast of Georgia. Lazika, whose construction had started in 2012 but is suspended by Ivanishvili's Government, was supposed to be a large port city with modern infrastructure, free economic zones, attractive and investment friendly tax environment.

Infrastructure development includes construction and development of the energy corridors in Georgia. Georgia serves as a transit hub for energy resources going from the Caspian and Central Asia to the rest of Europe.

There are operating important oil and gas pipelines crossing Georgia, such as, Baku-Supsa, Baku-Tbilisi-Ceyhan and Baku-Tbilisi-Erzurum.

Georgia has confirmed participation in the Nabucco project, which is a new gas bridge from Asia to Europe and the flagship project in the Southern Corridor. It will be a pipeline to connect the world's richest gas regions - the Caspian region and Middle East - to the European consumer markets. The pipeline will link the Turkish-Bulgarian border to Baumgartner in Austria - one of the most important gas turntables in Central Europe - via Bulgaria, Romania and Hungary.<sup>103</sup>

## B. ELECTRICITY INFRASTRUCTURE

In 2003, Tbilisi and most of Georgia only had access to electricity for a few hours per day. Though, Georgia produced 90% of utilized electricity locally during the

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<sup>103</sup> *Note:* The construction of the pipeline is supported by the 2009 Intergovernmental Agreement signed in Ankara in July 2009, which harmonizes the legal framework and grants stable and equal transport conditions for all partners and customers. For more information about Nabucco project see [http://www.nabucco-pipeline.com/portal/page/portal/en/Home/the\\_project](http://www.nabucco-pipeline.com/portal/page/portal/en/Home/the_project).

Soviet times. The electricity production and supply systems have collapsed in the 1990s.

The reasons for the collapse were diverse. Due to the rampant corruption and poverty, cash collection for the used electricity did not exceed 22 % of the billable amount. Outside Tbilisi, the collections were even worse and stood at 12 % of the billable amount.<sup>104</sup> People refused to pay because there was no reliable supply and there were no reliable meters. Due to the corruption in all levels of the power distribution companies, in many cases people pay small amount of bribe to manipulate the meters and pay less.

Even if collections would have been higher, it would not been enough to cover all the expenses of the power generation and distribution. Tariffs were low and didn't correspond to the reality. Shevardnadze's Government, otherwise deep in trouble, refused to increase the tariffs in fear of the political and social unrest.

Lack of the cash flow and corruption devastated the power generation sector. Many hydropower stations didn't work or were in desperate need of serious repair. In addition, after the war in early 1990s and the loose of control over Abkhazia, Georgia lost part of its largest Hydro Power Plant – Enguri. Enguri produces around 50% of the electricity in Georgia. Its dams are the highest in Europe and the forth highest in the world.

The power turbines and Enguri station itself are on the territories under the control of *de facto* Abkhaz government, but a water reservoir and the dams are located on the Georgian controlled territories. Due to the post war situation, it became complicated to control, repair and maintain the Enguri Hydro Power Plant.

However, due to its strategic importance, Georgian Government managed to negotiate with Abkhaz *de facto* authorities and the Russian forces deployed there to maintain the station. If damaged, Enguri will cause environmental disaster not only for the Western Georgia, including Abkhazia, but also for Turkey. Therefore, Abkhaz *de facto* authorities agreed on granting access to the Georgian authorities in order to ensure maintenance of the plant. Every year Abkhazia takes 1/3 of the electricity produced by the Enguri hydropower plant free of charge.

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<sup>104</sup> Fight against Corruption in Public Service: Chronicling Georgia's Reforms, World Bank ed., 2012.

Today, Enguri produces 4 billion Mgt electricity compared to 5,5 kvt in 2003, part of which is exported to Russia.

Dramatic reforms after the Rose Revolution increased electricity distribution to 24 hours a day from less than 6.

Many of Georgia's major hydro- electric power stations have been upgraded; as a result, the proportion of Georgia's electricity sourced from hydropower increased by almost 1 billion kw/h between 2003 and 2009.

Along with reforming the system through eradication of endemic corruption, increase in tariff, installation of modern reliable meters and improvement in collections, the Saakshvili's Government invested in the reconstruction of the devastated infrastructure.

For instance, the government has invested around 200 million USD to improve the capacity and reliability of the Thermal Power Stations and Hydro Power Plants. As a result the production of the electricity by HPPs has increased by 70%. New Thermal Power stations were built by private investors as the regulations are supportive and investor friendly.

New high-voltage electricity lines are under construction; upon completion, they will boost the network's transmission capacity by 90%.

To boost efficiency and profitability, the government implemented a plan aiming at privatizing the sector. As a result all the three power distribution companies are privately owned. The government only retained control of the power transmission lines. All other assets, including HPPs and TPSs were privatized. Around 300 million USD had been generated from the privatization of the sector. The privatization has increased efficiency and sustainability of the system and reduced the political or other factors

As a result:

- Power is available around the clock. No nationwide blackouts were reported since 2007;
- Technical losses declined from 6.6% in 2004 to 1.7% in 2010;
- Collections increased from 22% in 2004 to 100 % in 2010;
- Domestic power generation increased from 6.9 TWh in 2004 to 10 TWh in 2010;

Georgia was a net importer of power in 2004 and it is now a net exporter.

96 licenses have been issued to build new hydro power plants. Actual construction works are going on about 30 hydropower plants.

## **6. TOURISM INDUSTRY**

Today, tourism in Georgia is one of the largest single sectors of the economy with the annual revenue of 2.1. Billion USD - 8.5 % of the GDP.

Georgia has year-round attractions for tourists, including snowy mountains perfect for alpine skiing, seaside resorts with a rich cultural heritage, remarkable churches and charming ancient villages in the heart of Europe's oldest vineyards. As a result of various government initiatives since 2004, the number of visitors has increased five-fold.

In 2003, 350 000 foreign citizens had visited Georgia, in 2012 number of the visitors increased to 4,3 million. During 2009-2012, right after the war with Russia in August 2008, number of visitors has been increasing by 52 % annually.

The Government's target was 10 million visitors in 2016 and 12 % of the GDP. Government also worked to increase the amount each traveler spends in Georgia. In 2012 average spending stood at 370 USD.<sup>105</sup>

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<sup>105</sup> *Note:* The new government under Prime Minister Bidzina Ivanishvili declared that tourism is not a top priority in the government's agenda. However, due to the established reputation of the country as safe and foreigner friendly, the annual growth in number of tourists in the first quarter of 2013 reached 30 %.



Georgia has implemented several promotional activities to put the country on the map as the main destination in the region. Most successful projects were those, which targeted local audience in Azerbaijan, Armenia, Ukraine, Turkey and Iran. However, low rate of crime in the country and tourist friendly environment most likely played a decisive role in the increase of number of visitors.

#### A. DEVELOPMENT OF NEW TOURISM INFRASTRUCTURE

Despite beautiful nature, which includes 310 kilometers of the seacoast and the high mountains (the highest peak of Mount Shkhara is 5100 meters over sea level), tourism industry has collapsed in Georgia. Mild climate (average temperature in January on the seacoast +8°C), virgin forests, breathtaking national parks that constitute 12% of the country's territory along with the hot springs and thermal baths attracted the tourists for years. This well developed economy has disappeared in the 1990s. Along with the wars and civil unrests, high crime rate and devastated infrastructure are the reasons of the collapse.

Many cities and towns had been ruined down. There were no paved roads to the majority of the top tourist destinations. In many areas tourist infrastructure had been occupied by internally displaced persons. Around 15 thousand families had lived in different hotels, sanatoria and hostels in almost all top touristic destinations. The government had launched a program to resettle IDPs from those hotels. Almost 8 000 families were relocated and it gave a very valuable space for private investors to revitalize famous resorts and hotels.

Since 2004, there has been an increase of over 50% in the number of hotels. Today major world-renowned hotel brands operate in the country, including Marriott, Radisson, Sheraton, Hilton.

During 2005-2012, large part of the country's budget went to improve the infrastructure. Georgia's spending on infrastructure stood at 27% of the GDP, the highest in Europe. One of the top priorities in the infrastructural spending was to improve the conditions in the areas with high tourist potentials. Hundreds of projects had been accomplished, which improved the roads, public parks, museums,

water and sewage systems as well as the pedestrian areas. Downtowns in 11 major cities have been rebuilt to meet the necessary standards and attract visitors.

Together with the World Bank, Georgia has launched targeted programs to improve the infrastructure in certain high potential areas like Kakheti (wine producing region in Eastern Georgia) and Imereti (Western Georgian region rich in ancient caves and national parks). The government has participated in many Public-Private-Partnership projects to provide cheap credit or other types of assistance. For instance, if an investor built a hotel or guesthouse in a region, the Government would build road and other necessary supportive infrastructure.

Along with reconstruction of the existing tourism destinations, Government built new ones to attract different types of tourists. The new ski resort of Mestia was inaugurated in January 2010.

To facilitate the navigation and travel in the country, new tourism information centers were opened in Tbilisi and throughout the country.

In 2010, two “free tourism zones” were announced in Anaklia and Kobuleti on the black sea coast. The “free tourism zones” initiative allowed investors to develop tourism infrastructure in the coastal areas and benefit from the tax exemption and relief for years.

In order to facilitate arrival of tourists, transportation routes have been developed.

A new rail link between Georgia and the rest of Europe has been initiated. Boat and ferry services have been established connecting Georgian ports with other major European Black Sea ports.

New world-class airports have been operating in Tbilisi and Batumi since 2007. Restrictions on the number of passengers, destinations, and frequency of flights have been abolished.

The number of domestic and international flights in Georgia quadrupled between 2005 and 2009. During the same period, passenger numbers in- creased

by 84%.

Georgia now enjoys an “Open Skies” agreement with the European Union.

## B. OPEN DOOR POLICY

In order to attract foreign tourist in the country, Georgia has unilaterally lifted a visa requirement for the citizens of 70 countries, including the EU member states, USA, Turkey, Israel, Japan, Canada, Switzerland, and all CIS countries, including Russia, despite the fact that the latter requires visa for Georgian citizens.

For the citizens of most other countries, visas can be obtained at the point of entry in Georgia at reduced fees.

As a result of Georgia’s unilateral lifting of visa for the Russian citizens in 2011, number of visitors from Russia has increased dramatically. In 2012 the number of the visitors from Russia increased by 130%.

In 2011 Georgia signed an agreement with Turkey that allowed citizens of both countries to cross the borders without the passports. Georgian and Turkish citizens willing to cross the border are required to present domestic ID at the check points. It made the travel very easy and has entailed increase in number of Turkish citizens crossing the Georgian-Turkish border. This change affected particularly Turkish citizens living near the Georgian border, most of whom do not possess foreign passport.

Crossing Georgian border itself is a fast and enjoyable. It takes only 2 minutes and there are no lines. The introduction of a simplified and customer friendly procedures made it possible to cross the border very smoothly and quickly. In the last 5 years Georgian patrol police (who are responsible for the border administration) has added several new gates in all border points in order to avoid the lines. The difference with the neighboring countries is visible. For instance, it takes about 3 hours for a regular traveller to cross the Azerbaijan border while it takes 3 minutes to cross the Georgian border. There is no requirement to get out of the car or provide the luggage for the routine checking while crossing the Georgian border.

Driver and all passengers remain in the car while a border police officer checks their passports or other identity documents.

There are no fees, quotas and other transit barriers. Corruption has been eradicated from the system.

Only one car is checked out of 10 cars on the basis of random check. There is no requirement to have insurance for the car to enter the country or special technical assessment certificate, which was mandatory in Georgia and still, is required to cross the borders of other countries in the region.

Therefore, many citizens of the neighboring countries are encouraged to cross the border by personal car, which increases the number of visitors.

## **7. CONCLUSIONS**

As a result of the economic reforms implemented by the Government of Georgia, the country achieved average growth of 9.2% during 2003-2007. In 2008 growth slowed to 2% due to war with Russia and partially due to the world financial crisis. The financial crisis, not the war, is to be blamed for the 2009 recession when the economy contracted by -3.9%.

During the 2010-2012 the Georgian economy continued to grow by comfortable 6.2 %. Growth has accelerated during the first quarter of 2012 reaching 8.1%. Unfortunately growth has been halted by the results of the election of 1 October 2012. IV quarter growth was 2.1 % and economy grew by 1.6% in the I quarter of 2013.

Despite the shock of the Russian embargo, Georgian economy showed resilience.

When Russia introduced an embargo on Georgian goods in 2006, it was pretty sure that the Georgian economy would have collapsed in the nearest future as 90% of the export of the Georgian agricultural products was sold in Russia.

Along with the embargo on agriculture products, Russia had increased the price of the natural Gas from 60 USD per cubic meter in 2003b to 285 USD per cubic meter in 2006. Russia requested higher price then it sold to Europe. Meanwhile it continued to export the gas to Armenia via Georgia (as Armenia does not have direct border with Russia) at 110 USD per cubic meter.

In Addition, in February 2006, suddenly both pipelines connecting Russia and Georgia had been blown, allegedly on purpose. Georgia had been left without gas in the coolest winter of a decade. That was a wake up call for the Georgian energy sector to diversify. After the long negotiations Georgia and Azerbaijan had reached an agreement to provide all gas consumed by Georgia from Azerbaijan by the price far below of the market price 140 USD per cubic meter. In order to diversify separate contracts had been made with Iran and Armenia. As Russia had lost its leverage, it agreed to sign standby contract to provide natural gas at 285 USD in 2010.

Despite the fact that 20% of Georgia's territories, including the richest and geo-political important Abkhazia, is occupied by the Russian Federation, despite the Russian embargo, despite the war in 2008 and the world financial crises, Georgian Government managed to maintain economic growth in the country. This is particularly remarkable in light of absence any natural resources in Georgia.

This is why the world views Georgia's economic transformation from a failed state to number one reformer as remarkable.

According to the World Bank, since 2003, Georgia has implemented an impressive array of reforms. These reforms are reflected in pronounced political, social, and economic transformations following the 'Rose Revolution' at the end of 2003. The processes since the start of the reforms can be qualified as unique in terms of speed of reforms, degree of innovations, and extent of institutional restructuring. The reforms are recognized to have noticeably improved the institutional environment, provided a basis for more sustainable economic growth and human capital accumulation, and increased multi-fold foreign direct in- vestments.<sup>106</sup>

According to the United Nations Development Program, another reputable international organization, "reforms in tax law, customs law, employment law,

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<sup>106</sup> World Bank, April 2009, Report number 44400-Ge.

and licensing have made it vastly easier to start and run a business legally. The increase in tax receipts, privatization, and foreign investment have allowed the government to increase spending on key social services like healthcare, education, policing, and national defense, while at the same time increasing pensions four- fold and offering some targeted social assistance to those living in extreme poverty. From a human development perspective, these impressive achievements are part of a broader objective: to improve the lives of the Georgian people, not simply in monetary terms but in terms of their opportunities and choices.”<sup>107</sup>

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<sup>107</sup> United Nations Development Program, Human Development Report, 2008.

# Chapter 4 Public Administration Reform

## 1. INTRODUCTION

The government of Georgia inherited soviet style public sector with inefficient bureaucracy and rampant corruption. Citizens had to pay bribes in order to get basic services like passport or property registration, to start a business, or build a home. Citizens paid officials to obtain driver's licenses (knowing how to drive was not required) and pass vehicle inspections. Many corrupt government officials had been enriching themselves for years.

In its 2001 Evaluation Report on Georgia, GRECO, the Council of Europe Group of States Against Corruption wrote that *"It is generally accepted both within governmental and non-governmental circles, including most representatives of Georgian society, that corruption phenomena are endemic in Georgia and could jeopardize the further political, economic and social development of the country."*<sup>108</sup>

Informal payments were once the norm in public and civil registries – agencies responsible for civil status and property registration. The Saakashvili's government introduced a new culture, new staff, new technology, and new business processes that has streamlined all interfaces between the citizen and the state—from registering a property to obtaining a passport— eliminating many opportunities for bribes.

In light of the rampant corruption in public services, Saakashvili's Government took immediate measures to eradicate corruption. Fight against corruption included both prosecution of corrupt officials and modernization of the public service.

This chapter deals with the reforms implemented for the modernization of public services.

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<sup>108</sup> Firts Evaluation Report on Georgia, adopted by GRECO at its 5th Plenary meeting (Strasbourg, 11-15 June 2001), available at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1\(2001\)5\\_Georgia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2001)5_Georgia_EN.pdf).

Public sector reform was on the top in the agenda of the new Government. The new concept of service delivery, based on the corporate governance, has developed and implemented.

The reforms helped Georgia to maintain #1 reformer's status for the last five years according to the World Bank. In 2012, Georgia was ranked as #9 in the World Bank Doing Business Survey, #7 in starting business, #1 in property registration, #4 in issuing construction permits.<sup>109</sup> Secretary of State of the USA Hillary Clinton called Georgia's public service reforms a revolutionary innovation in public service delivery.<sup>110</sup>

As a result of the reform in public service, corruption, chaos, and inefficiency are gone, replaced by service-oriented employees at comfortable service facilities. Bribes are neither demanded nor accepted. Procedures are clear, with set fees and timetables, and transparent via computer. For instance, property registration, which took 39 days in 2005, now takes just 2 days, and the cost of doing so fell from 2.5 percent of the property value to 0.1 percent. The number of procedures has been cut from 8 to 1. As a result, Georgia now ranks first in the world in terms of ease of registering property, according to the 2013 *Doing Business* report.<sup>111</sup>

New Public Service Halls provide an array of public services under one roof, and most services can be accessed online, even from abroad.

Improvements in efficiency have been supported by a self- funding model that has enabled the registries to increase their revenues, become financially viable, and improve the services they provide. This model, which will be discussed below in greater details, has increased the budget of the public registry agency from about \$300,000 in 2004 to \$7 million in 2006 and about \$25 million in 2011.

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<sup>109</sup> Doing Business 2013 Smarter Regulations for Small and Medium-Sized Enterprises, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf> .

<sup>110</sup> See Remarks with the Georgian President Mikheil Saakashvili, Batumi, June 5, 2012, available at <http://www.state.gov/secretary/rm/2012/06/191818.htm> .

<sup>111</sup> Doing Business 2013 Smarter Regulations for Small and Medium-Sized Enterprises, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf> .



Trust in the public service providing agencies has improved dramatically. A public opinion poll taken in 2004 indicated that 97 percent of Georgians believed the civil registry was one of the most corrupt agencies in the country.<sup>112</sup>

A similar survey conducted at the end of 2006 showed a total reversal of the opinion: 97 percent of respondents believed that there was no corruption in the agency. These results were confirmed by the 2010 Life in Transition survey, which indicated that only 1 percent of respondents felt that unofficial payments were needed to obtain official documents—about the same as in advanced European Union countries.<sup>113</sup>

Reform of the public service providing agencies stemmed from a clear vision on cleaning up the interface between citizens and the state and creating service-driven agencies, as well as from the zero tolerance for corruption that drove other public service reforms. Financial autonomy, higher salaries and opportunities for bonuses, and training and professionalization changed the incentive structure within the registries. The new salary structure enabled the agencies to compete for good staff, alleviating capacity constraints. Simplified procedures and the widespread adoption of new technologies were also key factors in the success of the reforms.

Public Service Hall is the Crown of Georgia's public service reform. However, its creation was a result of multiple years long reforms that will be discussed below.

## **1. PROPERTY AND BUSINESS REGISTRATION: NATIONAL AGENCY OF PUBLIC REGISTRY**

Before the reform, property registration was complex and tiring process involved trips to various government offices for different papers and services such as stamps, signatures and notarizations etc. It could last two months or more.

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<sup>112</sup> See Fights against Corruption in Public Service: Chronicling Georgia's Reform, World Bank.

<sup>113</sup> Live in Transition, Governance and Public Service Delivery, 2010 available at <http://www.ebrd.com/downloads/research/surveys/LiTS2ed.pdf> (the survey provides comparison between 2006 and 2010 situations).

One of the reasons of protracted process was lack of communication between the agencies. For instance, business and civil registries stored data necessary for property registration. Both agencies were state entities but there was virtually no communication between the two and a citizen had to run around the circle to finally get all relevant documents for the registration. Authorities also demanded money to help people prepare documents and navigate the confusing process. Another method of requesting and even extracting bribes was requesting unnecessary and hard-to-obtain supporting documents for the registration or other services.

Poor or even non-existing communication between the agencies led to mistakes in the stored data, duplication of work, high cost and delays in the service delivery.

Certainly lack of communication was not the only problem in the property registration system. Corruption was another serious impediment of the process. One of the fertile grounds of corruption was absence of written official fees for services. For example, the price to register property could be based on transaction size, value, or whatever officials felt like charging. Corruption was rampant.

Many people had to pay bribes to speed up the process at the property registry or to buy fake registrations or permissions. They paid state workers to survey their properties. Without paying bribes they ran a risk of never having a proper cadastral survey conducted and the property registered.

Registering property involved eight procedures, took on average 39 days, and cost about 2.5 percent of the property's value, according to a 2005 World Bank *Doing Business* report.<sup>114</sup>

Infrastructure was equally worrisome. For instance, at property registries, hundreds of people would jam into small, smoky offices for hours.

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<sup>114</sup> Doing Business in 2005: Removing Obstacles to Growth, World Bank, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB05-FullReport.pdf> ; See also Doing Business in Georgia, available at [http://www.iset.ge/files/doing\\_business\\_in\\_georgia.pdf](http://www.iset.ge/files/doing_business_in_georgia.pdf)

Before the Rose Revolution of 2003, there has been multiple donor driven initiatives to reform the system. However, due to the lack of political will to attack corruption and resolve the problem, the reform initiatives have failed.

It was only in 2004, when the real changes in the public registry started. The first step of the reform was dissolution of multiple scattered agencies such as land committees, local councils etc. and establishment of one central institution with regional offices - the National Agency of Public Registry (NAPR). The NAPR was set up to provide quick and easy access to public registry information, the new self-financing registry would offer simplified registration procedures, secure ownership rights, and customer-friendly service, ultimately stimulating the economic growth.

The legal structure of the NAPR was so that it was entitled under the law to have its own income, i.e. to be self-financing. The structure and management model of the NAPR was more resembling to the corporate governance than the public sector management. This model made the NAPR income generating entity, which is now able to provide efficient and world-class services to the citizens.

The second step was to eradicate conflicts of interest between various agencies handling public registry issues. Under the old system, for example, registrars were responsible not just for registering property but also for monitoring land use and ultimately selling state land. Combination of these two functions in the same authority created an obvious conflict of interest. After the reform, the monitoring role went to municipalities, which lost the power to help choose regional registrars, power that had led to political influence over land valuations, registrations, and disputes.<sup>115</sup>

Another pillar of the reform was a transfer of certain functions to private companies – the outsourcing. Outsourcing of certain services helped the NAPR reduce the bureaucracy in the system and also let others do things better. One of state entities whose works were outsourced was the Bureaus of Technical Inventory, which registered buildings in urban areas and handled surveys and land cadaster. The Bureaus of Technical Inventory is now dissolved and about 25 private companies are in this business now. The diversity keeps the cost in line with market demand, leaving little room for corruption, and creates more possibilities to choose the best service.

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<sup>115</sup> Fight against Corruption in Public Service: Chronicling Georgia's Reforms, World Bank ed., 2012.

The reform certainly addressed the problem of communication prevailing in the pre-reform period. The NAPR and its 68 registry offices around the country are connected to one computer system. Maintenance of all information, as well as procurement, accounting, and payroll functions (previously handled locally and leading to misappropriation of funds) would be handled centrally, with regional offices registering property.

The number of documents required to register property was reduced from six to two and later one (the sales and purchase agreement). The simpler system cut unnecessary steps such as the mandatory notarization of sales agreements. In its place, parties now register agreements by signing them at the agency.

Later, the NAPR software was developed so as the have so-called authorized users, including notaries, banks, and real estate companies, can register the property or business from home or office.

Today NAPR is one of the most advanced technological agencies in the country. It is responsible for property and business registration. Every person in NAPR appreciates that permanent innovation and development-oriented National Agency of the Public Registry is a guarantee of business and property registration in the country.

Today NAPR ([www.napr.gov.ge](http://www.napr.gov.ge)) provide number of online services to its customers. The online service system enables the customers to find detailed information on property and business registration, and use different web-services.

Without leaving the residence or the office, any consumer can:

- Submit electronic application to NAPR,
- Pay service fee by using the Credit/Debit Card,
- Monitor separate stages of considering the application,
- Search for registration applications, decisions or extracts from public registry according to different criteria.
- Find most updated information on the property arrest and tax lien
- Search for any land parcel on the cadastral map and obtain detailed information on its boundaries, property rights, and buildings located on the real estate

- Quickly and easily find streets, avenues and other objects (hotels, restaurants, banks, museums, schools, etc.) using electronic/interactive maps.
- Seek applications and already prepared documents (notification/description, inventory plan, information on immovable property status and copies of the documents) in the technical inventory archive
- Obtain extracts from the registry of entrepreneurs and non-commercial legal entities. (Such documents can be found or purchased on any company thorough the web-site. the extract indicates the name of the company, legal address as well as official representatives of the company, authorized persons, partners and their shares. It also provides information on liquidation or reorganization of the company)
- Seek registration applications, decisions and extracts on movable property/intangible property pledge or leasing
- Get free legal consulting through video calls and use online consulting service on issues concerning property as well as business registration

As soon as the registration is completed the user receives SMS on the mobile phone.

Registration decisions and extracts from public registry are produced in electronic forms. Electronic document has unique bar code, which is a substitute for the seal and signature, and has the same legal force. Therefore, the user can print out web-based documents and use it in dealings with official authorities or other entities.

Mobile consultant service is now available in service offices of the NAPR in order to simplify registration procedures. The customer wishing to clarify or organize any issue is assisted by the mobile consultant on the spot using mobile monitor. The customer saves time and receives quick service.

Public Registry is implementing the global project that aims to cover the whole territory of the country with GPS stations, or Continuously operating Reference Station (CoRS). The project is very important for economic development of the country as it supports civil constructions, topographic activities, cadastral photography and modernization of geodesic capacities of the country.

CoRS enables conducting land survey quickly and with highest accuracy and

develops the business of surveyor companies.

Spatial, geographic, topographic, cadastral and other land-related data on Georgia will now be entered to the unified internet-based map of Europe, enabling the country to make one more step towards Euro Integration.

The product of Eurogeographics is an important resource for EC and European Environmental Agency, since common European products create basis for joint European statistical monitoring, strategy development and environmental management.

## **2. REFORM OF THE CIVIL REGISTRY AGENCY**

In 2004, the government created the Civil Registry Agency, responsible for passports, identification cards, birth, death, and marriage certificates. Civil Registry' portfolio included issues related citizenship and migration as well as the legalization of foreign documents.

Before the reform, like in case of property registration, all these services were scattered among dozens of agencies at the central and local levels. Citizens willing to get a passport or marriage certificate, as well as any other document from a state agency, had to go from one agency to another for certificate, signature or stamp.

One of the ideas of the reform in the Civil Registry was to streamline the procedures so as the officials not citizen were obligated to obtain all necessary document kept in any state agency. Databases from various agencies are now unified online, allowing these documents to be accessed in seconds.

All fees charged by the Civil Registry Agency are now clear and in writing—as are the time frames for issuing various documents. In some cases, processes that used to involve bribes were simply formalized and made legal. For example, for a fee, citizens can get documents processed the same day—much like they used to pay bribes to speed things up.

To minimize the risk of corruption, employees of the Civil Registry do not accept fees directly. Instead, commercial banks or bank representatives present at these offices collect these fees, limiting the ability of public officials to extract bribes.

Front and back offices are separated physically and functionally, meaning citizens could no longer sit around smoking with and chatting up (or paying off) back-office workers involved in decision making.

Officials working in front offices were trained to be friendlier to applicants and taught when to get a supervisor. Local civil registry agency offices were revamped with glass windows, bright lighting, and staff assigned to greet customers and answer their questions.

Introduction of high technologies in service delivery was viewed as the most cost efficient, corruption and bureaucracy free and customer oriented approach. Civil Registry Agency responsible for registration of personal status from citizenship to marriage and birth has been a pioneer in introducing online and distanced services.

At the Civil Registry, major technological changes were introduced over time. Before reform, about 10 computers served the entire civil registry, and identification cards were typed using a typewriter.

All offices of the civil registry are connected technologically, making it possible for citizens to request documents from any civil registry office, not just the one at which they registered their documents. Diplomatic missions and consular posts are also connected to this database. Medical institutions are obligated under the law to send messages about births and deaths electronically to the agency within five working days or be fined GEL 500.

Underpinning reforms has been a big push to create complete electronic pictures of every citizen. Civil registry employees have been going village to village and to schools with portable kits and cameras to register citizens and issue free identification cards. Citizens have been informed that failure to secure a proper identification card within a year would mean a loss of government benefits. Today, some 97 percent of the population have photo identification cards, which are linked in the agency's database to documents such as birth certificates and residency permits, some digitized from old paper records.

Along with regular service, Civil Registry Agency has introduced so-called accelerated services. Accelerated services allow the customers to get the regular services in relatively short period of time, within a day, with high price. The following services can be received through the accelerated services mechanism:

- Issuing of passport
- Issuing of ID Card
- Issuing of Residence permit
- Issuing certificates on name, patronymic, surname change
- Change and correction of civil acts recordings
- Issuing of repeated certificates of civil acts registration
- Issuing of certificate related to the civil acts registration
- Apostile and legalization of the document granting of citizenship  
Receiving of citizenship Renounce of the citizenship
- Termination of citizenship

#### A. GETTING A PASSPORT ONLINE

Before the reform, a citizen had to pay around 100 USD to get the passport or he or she had to go to one office, only to be sent to another to get proof of residency before returning to the first office to stand in line for hours to bribe some official just to do his or her job.

Georgia was one of the first among the Eastern Partnership countries that started issuing biometric passports. Since 2010, Georgian citizens can receive modern type, high-quality travel document in every region of the country. Introduction of biometric passport, as a high technological device, was introduced in order to facilitate visa simplification negotiations with the European Union.

Georgian citizens who live abroad can submit online application to the Civil Registry Agency to receive the passport. Prior to this change citizens living abroad had to approach the respective consulates. Online applications enable citizens to significantly save time and resources. Georgian citizens living abroad can fill in application for passport through following web-page of the Agency: [www.passport.gov.ge](http://www.passport.gov.ge) . Identity is confirmed during a video call with face recognition software using photographs from documents issued since 1993. The



database already includes some 9 million photos. The new system also makes it easier to identify falsified documents.

Furthermore, citizens living abroad can make use of post service and receive passports through post.

Passports are automatically be linked to a new kind of e-identification card, introduced in the summer of 2011. This secure card now includes a digital signature; biographical data, such as name, date of birth, and fingerprints; it will ultimately include bank account and employee verification information. It will serve as a tool for receiving public services. The new cards are not obligatory, although the old cards will no longer be issued.

## B. ELECTRONIC APOSTILLE

In order to increase reliability of the documents apostilled in Georgia, a new protection mechanism - an electronic journal have been introduced. A foreign agencies that have received the apostilled document can verify its validity on the agency's web-site [www.passport.gov.ge](http://www.passport.gov.ge) , by using unique number and date of issue of the apostilled document.

Moreover, the Georgian citizens living abroad can request apostille and legalization of documents through electronic application form.

## C. ONLINE CITIZENSHIP

The persons living and residing abroad are given a possibility to apply for citizenship issues to the Civil Registry Agency through electronic application. The mentioned service is significantly easy and less time-consuming. The electronic applications can be filled on the web-page of the Agency.

## D. MULTIFUNCTIONAL ELECTRONIC ID

Multifunctional electronic ID has significantly change approach of state and private sector towards the citizens. The new ID, which looks like an ordinary

plastic card, has digital signature certificate. Introduction of digital signature will entail gradual replacement of paper-based workflow with electronic circulation of documents.

Furthermore, given project will make an approach of the state towards citizens significantly simplified and much more convenient. For instance, today if an application should be submitted to any state agency, the citizen should approach the respective agency and submit the signed application to the chancellery of the organization himself.

Full scale introduction of the new multifunctional e-ID will enable citizen to fill in the application form online at home verify by digital signature introduced on a plastic card and send through email to desired state agency. The digital signature has legal power and after verifying the document it is impossible to introduce any changes within.

Electronic ID will have a potential to replace the majority of the plastic cards widely used nowadays in both, public and private sector, e.g. insurance, public transportation, bonus cards etc.

Furthermore, the e-ID possesses the considerable potential to store significant volume of information, including medical history.

However, access to such information will be limited to external entities thus only card owner and entities duly authorized by the owner will have an access to data gathering.

### **3. REFORM OF THE NOTARY PUBLIC**

Before the reforms, Notary Public had been one of the most conservative service providing agencies, which suffered with the problems characteristic to the public sector of Georgia.

The reforms in the Notary Public started later compared to other service providing agencies. However, significant reforms had been implemented by

2009.

One of the innovations was introduction of the electronic notary registry, which allows the citizens of Georgia without leaving home or office to:

- Verify whether his/her notary act has been registered,
- Seek desired document and verify its reliability
- Receive inheritance certification from any notary without territorial limitations. Earlier the person had to go to the notary of appropriate neighborhood to receive inheritance certification

Georgia is probably the only country in Europe where notary service can be received online. Georgian citizen in any part of the world can go online and approve any consent, certification, proxy or even receive legal consultation.

Approval of the business dealing online with participation of two or more notaries is also legal in Georgia. When parties of the business agreement are in different areas and cannot go to the same notary, they go to notaries near their respective locations and the notaries can approve the deal through the electronic communication system.

The reforms in the Notary Public help to have smoother and more customer oriented business activities in the country.

#### **4. NATIONAL ARCHIVE AS A SERVICE PROVIDER**

Introduction of e-services and implementation of technological innovations in the National Archives was an important part of speedy service delivery in other agencies. Most public service delivery agencies needed information stored in the National Archives at some points of their activities. Therefore, reforming the National Archive became important.

Today, citizens can get documents, including the certifications, from the Archive electronically. For this end, any interested party shall submit electronic application through the National Archive's official web page, pay official service fee through the special software available at the Archive's web site and receive electronic document. Certifications received online have the unique barcode and

therefore they have the same legal power as the sealed document issued by an Archive official.

The official web page of the National Archives, the [www.archives.gov.ge](http://www.archives.gov.ge) , includes a search system for unique photographs, enabling the client to see desired picture.

## **5. DATA EXCHANGE AGENCY OF GEORGIA**

Today, a large number of ministries and agencies offer different electronic services aiming to streamline the process of interaction between citizens and state organizations by the means of high technologies. To simplify and regulate the data-flow between various agencies, the Data Exchange Agency of Georgia was established under the umbrella of the Ministry of Justice.

The DEA has created and administers a web-site [www.e-government.ge](http://www.e-government.ge) , which collects electronic services provided by various governmental institutions and puts them in easy-to-find place. Citizens don't have to think where to go and seek desired electronic service or information; they can visit the single web page and receive any electronic service offered by the state.

The web page is accessible for any type of users, from ordinary citizen to a representative of business sector or public servant.

The web page is also an excellent opportunity to develop and promote active and upcoming electronic services.

## **6. NATIONAL BUREAU OF ENFORCEMENT**

Georgia suffered with the problem of non-enforcement of court decisions. The enforcement agency, which was before the reforms a department at the Ministry of Justice, was notoriously corrupt institution where citizens queued for getting the writs enforced for years. Some very lucky or very well connected ones would achieve the goal only after paying significant percentage of the enforced money in bribes.

Although enforcement between the private parties was difficult, it was impossible when the case involved the state.

In 2008, the Enforcement Department of the Ministry of Justice was transformed into National Bureau of Enforcement, which became a legal entity of public law. Significant changes started in the system. The Bureau has become a service delivery agency oriented at providing high quality service to its customers in exchange of revenue. The whole system was switched to the paid mode, which offers instant and efficient services to the customers. National Bureau of Enforcement has 8 regional offices countrywide.

Since 2009, the National Bureau of Enforcement moved completely to the electronic case management and service delivery process. As a result, the operation of the Enforcement Bureau became online. Today, a creditor and a debtor can receive detailed information about the case proceedings online without even leaving home. Each assignment or complaint received in National Bureau of Enforcement or its territorial bureaus is automatically registered in the program.

Information about auctions, services, rights and responsibilities of enforcement officers, legal guarantees of a creditor and a debtor, etc. are systematically posted on the web. Besides, there is a hotline available that has even further improved public relations.

Debtor registry, an electronic database that registers all physical and legal entities that are subject to forced enforcement, was created. As Individuals and legal entities are entered into the debtor database, the entity has limited management abilities of own fixed or liquid assets, making enforcement process far more effective.

Any Individual or legal entity is entitled to receive information on the persons registered in debtor database and excerpt from debtor registry, which is an important step for successful management of business-related risks.

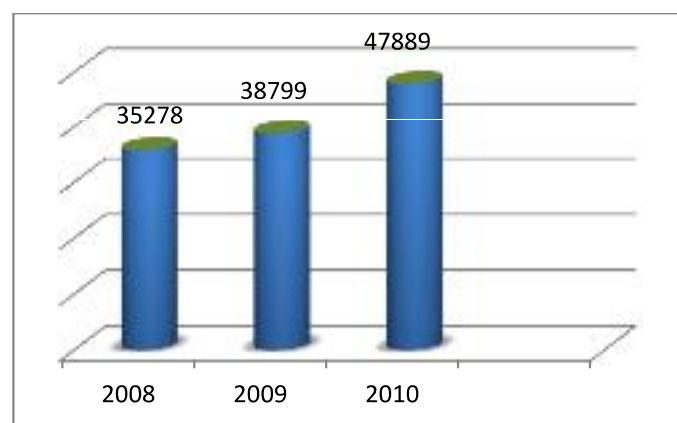
Since 2011, online auctions were launched, which has enabled interested parties to seek and acquire assets of interest. Before that reform, clients needed to visit relevant enforcement bureau in order to buy appropriate assets, but after launching the online auction system, citizens are able to acquire assets from any

part of the country, regardless of the location.

In June 2009 institution of private enforcement officers was established. Though independent, Ministry of Justice of Georgia establishes frameworks and standards of operation for private enforcement agencies/officers. Ministry of Justice also issues licenses to private persons willing to be a private enforcement officer.

Today, National Bureau of Enforcement is an efficient income generation agency oriented at providing high-quality service of its customers. The official statistics cited below is indicative of the progress made.

Number of enforced cases in 2008-2010:<sup>116</sup>

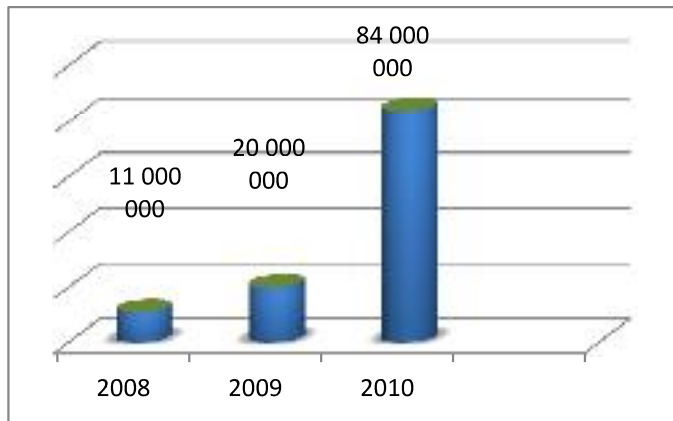


Probably more importantly, the revenue generated by the National Bureau of Enforcement has increased dramatically over the years. Though the before-the-reform data is unavailable, the comparison of 2008 income to the 2010 income show huge difference (in GEL).<sup>117</sup>

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<sup>116</sup> Statistics on enforced cases are borrowed from the web site of the National Bureau of Enforcement of Georgia, available at <http://nbe.gov.ge/files/Images/statistika%20arqivi/arqivi%20eng/statistika.eng.6.JPG>.

<sup>117</sup> Statistics on the NBE's contribution to the State budget are borrowed from the web site of the National Bureau of Enforcement of Georgia, available at <http://nbe.gov.ge/files/Images/statistika%20arqivi/arqivi%20eng/statistika.eng.8.JPG>.



## 7. EVERYTHING IN ONE SPACE – PUBLIC SERVICE HALL

The Public Service Hall (PSH) is the most comprehensive approach and a good evidence of the success.

The PSH is a government agency with an independent legal status (it is called Entity of Public Law). Under the law, it is entitled to generate income and its employees are not public servants. This flexibility allowed the Government to use corporate governance model, including development of innovation management, recruitment and motivation systems.

The PSH is a novelty and a step forward from one-stop-shop principle to the everything-in-one-space that brings around 250 services under its umbrella.

The PSH has front and back offices. Front offices are outsourced and shared among various government service providing agencies. This approach simplifies access to public services as everything can be received in one space. Today, citizens visit PSH, for instance, for birth certificate, which is issued by Ministry of Justice, for a license to exploit natural resources, which is issued by the Ministry of Energy and Natural resources, for a driving license, which is issued by Ministry of Internal Affairs etc. The appropriate ministries serve as back offices though a citizen uses one institution – PSH – to get in touch with the relevant government body. Along with government agencies, banks are represented in the PSHs that allow the customers to pay service fee without leaving the PSH.

The front office concept and operational procedures was elaborated with the assistance of an USA company Sentao. The service area or the front office is divided into three categories: **Self Service Area** – where citizens have online and self services, **Quick Service Area** – where average waiting time is 0.10 minutes and the service time is 0.40 minutes, **Long Service Area** – average waiting time is 0.48 minutes and service delivery is 5 minutes. The interior of the PSH is similar in every office and is very customer friendly, while the architecture is original and even landmark. Bellow is Batumi PSH exterior and interior as visual example.

Batumi PSH from the outside



Self Service Area in Batumi PSH





Quick Service Area in Batumi PSH



Long Service Area in Batumi PSH



Along with regular services, the PSH provides distance, accelerated and VIP services. Distanced services include but are not limited to e-auction, electronic notary, passport through trusted person or ensured mail service and the citizen is informed by instant message about each step of preparation and issuing the requested document.

Wide range of accelerated services is provided in significantly reduced period of time with increased fee. For instance, one can register a company in one business day with 100 GEL (60 USD) while the expedited service, the same day registration, costs

200 GEL (140 USD). VIP services allow customers to order a passport, for instance, and receive it at home.

In order to ensure highest quality of the service, new approach of recruitment and training of the staff has been developed. The employees in the front office are trained in service and service plus and have real opportunity of promotion. At the same time, everyone is encouraged to be an innovator and identify areas for improvement. This approach, which was based on the experience of top class international companies like Google, helped us to develop new services, such as Just Drive and Just Café.

Just drive allows citizens to receive the service using a special car lane in Tbilisi PSH without a need to leave the car.

Just café in the Tbilisi PHS has an excellent ambiance where serving coffee and delivering the passport take exactly the same time.

Just café in Tbilisi PSH



Tbilisi PSH from outside



In order to maintain the quality, various internationally accepted surveys are conducted regularly by both domestic and foreign companies. All surveys show that PSH enjoys high customer satisfaction. According to a recent poll, 98% of customers are satisfied with the PHS.<sup>118</sup>

At the same time, transparent and technology based services minimizes risk of corruption and reduces bureaucracy. This is why Georgia occupies #1 place in satisfaction with official documents delivery according to the EBRD Life in Transition Survey, 2<sup>nd</sup> place in Customer Service Efficiency and only 1% of the population believes that irregular payments are used for receiving official documents.<sup>119</sup>

In fact, the PSH, as a concept is more than zero bureaucracy, zero corruption and customer oriented public service, it is a profitable business project that helps economic boost and generates income. In 2004, four agencies under the Ministry of Justice responsible for issuing various official documents including passports, birth certificates, property registration papers etc. were fully funded by the State budget and the combined budget was up to 4 million GEL (around 2.5 million USD). Today all these agencies are under the umbrella of the PSH, are managed according to corporate governance principles, where the employees are encouraged to innovate and make profit. This is why the budget of the PSH and the agencies under it exceeds 150 million GEL.

The PSH project has started in 2011 and already there are 12 offices in all major cities and towns. As it develops, it is planned to do the IPO.

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<sup>118</sup> Information available at [http://psh.gov.ge/index.php?sec\\_id=1&lang\\_id=ENG](http://psh.gov.ge/index.php?sec_id=1&lang_id=ENG).

<sup>119</sup> European Bank for Reconstruction and Development, Life in Transition Survey, 2011, available at [http://www.ebrd.com/downloads/research/surveys/LiTS2e\\_web.pdf](http://www.ebrd.com/downloads/research/surveys/LiTS2e_web.pdf).

## **8. SERVICE CENTER OF THE MINISTRY OF INTERIOR: ISSUING DRIVER'S LICENCE**

Getting drivers license, like getting passport, was a challenge in Georgia. People paid around 100 USD in bribes to get it; actual knowledge of driving a vehicle was irrelevant. The system was notoriously corrupt while the process was chaotic and time consuming.

In the course of reforming the system, Service Agency of the Ministry of Internal Affairs was established. The SA MIA provides one-stop shops for driving license (as well as other licenses such as a license to carry arms), vehicle registration including registration of export and import of a vehicle. Getting drivers license is transparent, open and speedy. Currently, most of the tests, including the practice test are administered through using the IT technologies that minimizes the risks of corruption and undue deals between citizens and officers of the SA MIA.

The data related to the driver's license is so systematized that in October 2011, the government removed the requirement that drivers need to carry their driver's license when driving. The patrol police can easily check for the license electronically from their car by entering the driver's name and birth date into the onboard computer.

The emphasis on quick and courteous service is maintained at the SA MIA. For instance, the paper work to expedite the sales transaction can be completed in a matter of minutes.

The process of sales, export and import of vehicles became so efficient that it spurred the development of a large used car market adjacent to the service center serving the Tbilisi area. Used cars imported from the United States, Europe, and elsewhere are brought to the market for sale and often re-exported to neighboring countries of Armenia, Azerbaijan and even central Asia. The market has been so successful that the re-export of used cars became Georgia's leading export in 2011.

## **9. CONCLUSIONS**

Public service reform was a necessary precondition for prevailing over the

corruption and promoting economic growth in Georgia. As discussed above, each sectoral reform brought not only systemic improvement but also a concrete result of revenue growth and increased business activities.

Along with the above-mentioned details, there have been general trends and principles in the reform process that are equally relevant for each small segment.

Optimization of the staff was one of the central lines of the reform. Most of the entities employed excessive number of people and the jobs descriptions for all of the staff was non available. Therefore, the reformers had to take a very painful step of staff reduction in public sector. For instance, the NAPR dismissed around 2500 employees overnight.

Along with the optimization of the size of public service providing agencies, it was necessary to increase the qualification and improve the skills of the remaining ones in order to achieve the reform goal – high-quality service delivery. At the same time, new recruitment standards were introduced to ensure that most deserving people were hired without nepotism and favoritism.

Salaries for the employees were increased step by step but significantly. By 2010, average salary of an employee has increased 20 times compared to the salary in 2003. Transparent and performance linked bonus systems were introduced in every agency. This change helped the management to motivate the employees to be dedicated and creative.

At the same time, significant legal and structural reforms were made to make the reforms possible. The fees for each service were prescribed by law; the payment mechanisms were streamlined so as the banks stationed in every agency not the employees receive the fees.

Internal monitoring and quality control systems were created to ensure continued uphold of high standards in service delivery.



## Chapter 5 Justice Sector Reforms

### 1. INTRODUCTION

Justice sector was another non-functional segments of the Georgian government before the Rose revolution in 2003. Attempts were made to reform it in early 2000s but for no avail.

Mikheil Saakashvili embarked on ambitious judicial reforms when he was Minister of Justice in Shevardnadze's government. Despite the efforts made and the assistance from international experts and donors, the reforms have failed. The main reason of the failure, along with lack of political will for change across the spectrum of the government, was the fragmented nature of the reform: the announced judicial reform aimed at changes in the court system, while investigation, prosecution and penitentiary remained untouched. The police was corrupt and a symbol of violence, prosecution service was a typical corrupt Soviet Prokuratura, while prisons were governed by mafia bosses, known as thieves-in-law. Corruption and organized crime was endemic in every part of the justice sector.

Having in mind the past experience, the new Government under President Saakashvili launched comprehensive and multifaceted reforms in the justice sector.

At the early stage of the reform, some harsh measures were taken, including changes in the staff (for instance around 16 thousand police officers were dismissed from the system in a single day) and changes in the relevant legislation. More comprehensive reforms were undertaken afterwards.

Thus, the justice sector reform comprised of the following priority areas: 1) legislative changes necessary for the implementation of the reforms, 2) judicial reforms aimed at eradication of corruption in the system and guaranteeing independence of judges, 3) transformation of Soviet Prokuratura into a modern prosecution service, 4) police reform, 5) reform of the penitentiary and probation. The other side reforms helped maintaining the sustainability of the system.

It is important that the reforms in justice sector were based on the zero tolerance policy for the first five to six years of the Saakashvili's government. At a later stage relatively liberal approaches were introduced in the justice sector as the crime rate decreased dramatically and organized crime and corruption was largely defeated.

The main directions of the justice sector reforms are described below.

## **2. LEGISLATIVE CHANGES**

The new Government was well aware of the deficient legislation that would not allow them to implement ambitious reforms in a limited period of time. Therefore, one of the first steps included changes in the most important pieces of the legislation.

The first major changes were made to the Constitution that transformed Georgia into a strong presidential republic.<sup>120</sup> Many politicians at that time believed that consolidated ruling was necessary for the speedy and thorough reforms in the country. Though, the critics were voiced against the potential excessive power consolidation.

### **A. INTRODUCTION OF PLEA AGREEMENT IN CRIMINAL CASES**

Along with the Constitutional amendments, some urgent changes were introduced to the Criminal Procedure Code and Criminal Code. At the same time, a team of experts headed by Minister of Justice and later Prosecutor General Zurab Adeishvili started drafting of the new Criminal procedure Code that would replace the old Soviet type criminal legislation and introduce adversarial system based on the common law principles.

One of the urgent changes to the criminal legislation was introduction of plea agreement mechanism in Georgia in 2004. Plea agreement is very much a common law institution not always favorably accepted in the continental Europe. Parties to the plea agreement are prosecutor and defendant. Interest of the prosecutor is speedy and efficient justice.

A plea agreement is an alternative and consensual way of criminal case resolution. A plea agreement means settlement of case without main hearing when the defendant agrees to plea guilty in exchange for a lesser charge or for a more lenient sentence and/or for dismissal of certain related charges.

Plea agreement implies simplified case settlement without oral pleadings and

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<sup>120</sup> For the critical analysis of the 2004 Constitutional amendments See Georgia's Constitutional Amendments: A Set-back for Democratization? By Sabine Freizer, Central Asia-Caucasus Institute Analyst, 02/11/2004, available at <http://old.cacianalyst.org/?q=node/1853>.



dispute regarding the evidence; it ensures prompt justice and saves the state resources. At the same time, plea agreement gives incentive to the defendant to cooperate with the investigation and receive substantially reduced sanction or no sanction at all in exchange of useful information.

Plea agreement is particularly helpful tool for the law-enforcement agencies in the situations similar to that in Georgia in 2004, when a large-scale fight against organized crime and corruption was launched by the authorities. In the fight against organized crime, plea agreement allows the police to reveal leaders of the criminal groupings on the basis of the information obtained from the defendant.

It is also very important to use plea agreement on less serious crimes, when there exists a public interest to end the cases quickly and to reallocate time and resources effectively. It is a necessary mechanism for settlement of trivial cases since in such instances parties have nothing to dispute and wish to settle the cases without protracted court proceedings. Therefore, it was timely and useful for Georgian criminal justice system to introduce plea agreement.

Like in other countries, there are two basic forms of plea agreements in Georgia: guilty plea (agreement on plea) and no contest (agreement on sentence without guilty plea).

The main principle of the plea agreement is that it must be based on the free will of the defendant, equality of the parties and advanced protection of the rights of the defendant. In order to avoid fraud of the defendant or insufficient consideration of his/her interests, Georgian legislation foresees obligatory participation of the defense counsel. The defendant has the right to reject the plea agreement on any stage of the criminal proceedings before the court renders the judgment. In case the plea agreement negotiations fail to reach the actual agreement between the prosecution and the defense, the former is prohibited to use information provided by the defendant in the context of the plea negotiations.

The defendant has the right appeal the judgment rendered consequent to the plea agreement if the plea agreement was concluded by deception, coercion, violence, threat or violence.

To avoid abuse of powers, legislation foresees written consent of the supervisory prosecutor as necessary precondition to conclude plea agreement and to amend its provisions.

Although plea agreement seems to be primarily a relationship between the prosecution and defense, no plea agreement has the legal affect without the approval of the court. The court must satisfy itself that the plea agreement is concluded on the basis of the free will of the defendant, that the defendant fully acknowledges the essence of the plea agreement and its consequences. Guilty plea of the defendant is not enough to render guilty judgment. Consequently, court is obliged to discuss 2 important issues:

- Whether irrefutable evidence is presented which proves the defendant's guilt beyond reasonable doubt.
- Whether sentence provided for in the plea agreement is legitimate.  
(Article 212 of the Criminal Procedure Code of Georgia)

After both criteria are satisfied the court additionally checks whether formalities related to the legislative requirements are followed and only then makes decision.

If the court finds that the presented evidence is not sufficient to support the charges or that a motion to render a judgment without substantial consideration of a case is submitted in violation of the requirements stipulated by the Criminal Procedure Code of Georgia, it shall reject the plea agreement and return the case to the prosecution or propose the parties to change the terms of the agreement.

If the court satisfies itself that the defendant fully acknowledges the consequences of the plea agreement, and he/she was represented by the defense council, his/her will is expressed in full compliance with the legislative requirements without deception and coercion, also if there is enough body of doubtless evidence for the conviction and the agreement is reached on legitimate sentence - the court approves the plea agreement and renders guilty judgment. If any of the abovementioned requirements are not satisfied, the court rejects to approve the plea agreement and returns the case to the prosecutor.

To take into consideration interests and grievances of the victim of a crime, the Criminal procedure Code of Georgia obligates the prosecutor to consult with the victim prior of the concluding the plea agreement and inform him/her about

negotiations. Under the internal guidelines, prosecutors were required to take into consideration the interests of the victim and as a rule conclude the plea agreement after the damage to the victim was compensated.

Plea agreement has been used very intensively by the prosecutors in Georgia. By 2010, around 80% of the cases were decided through the plea agreement mechanism. This helped the court to relieve the caseload and at the same time allowed prosecutor and courts to concentrate on more complex cases. Plea agreement played particularly important role in the early years after the Rose Revolution in gathering evidence against the most influential mafia bosses and corrupt public officials in exchange of mitigated sentence. However, it should be mentioned, that many NGOs and European institutions often criticized Georgia for introducing plea agreement mechanism.<sup>121</sup>

## B. CRIMINALIZATION OF MAFIA MEMBERSHIP

In 2006, a new law, Law on Fight against Criminal World, similar to the RICO Act in the United States, was adopted in Georgia. The new law allowed the law-enforcement to effectively implement the zero tolerance policy against organized crime.

At that point of time, so-called “criminal world” and their bosses known as thieves-in-law, created huge threat to the state-building process launched by the Government of Georgia. Thieves-in-law not only planned and implemented criminal activities but also controlled almost every aspect of lives, starting from resolution of disputes between individuals and businesses to deciding on issues of public importance. It was well known that in early 2000s and before, Minister of Interior and other officials would meet the mafia bosses/thieves-in-law in the airport and escort them. The state institutions were overwhelmed by the influence of the organized criminal groups and mafia bosses.

This problem had been so deeply rooted that the Government had no choice but to undertake drastic measures against the phenomenon. Therefore, the Saakashvili’s government benefited from the experience of other countries, Italy and the United States in particular, and in 2006 they have criminalized membership of “criminal world” or being a thief-in-law. At the same time, a new law on Organized Crime and Racketeering Activities was adopted that provided broader basis for implementation of the criminal legislation.

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<sup>121</sup> See Plea bargaining in Georgia, 23 February 2010, Transparency International Georgia, report available at <http://transparency.ge/en/post/report/plea-bargaining-georgia>.

At the same time, Civil Procedure Code introduced mechanism for confiscation/forfeiture of property belonged to a thief-in-law (for the details of the forfeiture mechanism see the chapter bellow – Forfeiture of unexplained wealth).

As a result of the fierce fight against mafia bosses (Georgian thieves-in-law) the country managed to defeat organized crime and prosecute most influential mafia bosses. Others, who avoided the justice, left the country and found safe heaven in foreign countries, mostly in Russia. According to President Saakashvili, “These criminals owed their existence to the state; once the nexus with the state was broken, they became helpless.”<sup>122</sup>

The attack on organized criminal groups and mafia bosses was particularly critical for the police and penitentiary reforms as both systems were ruled by mafia bosses (for the details see bellow the chapters related to the reforms in penitentiary and the police).

### C. FORFEITURE OF UNEXPLAINED WEALTH

As early as in 2004, Georgia started introduction and improvement of various legal mechanisms necessary for returning the stolen state assets back to the state.

Three major aspects are of particular importance: Article 194 of the Criminal Code of Georgia criminalizing Legalization of Illegal Income, Article 52 of the Criminal Code of Georgia authorizing forfeiture of proceeds of crime and Article 37<sup>1</sup> of the Criminal Procedure Code of Georgia in combination with Chapter XLIV<sup>1</sup> (Proceedings concerning the seizure of the property owned by racketeer, public official, the member of the criminal circle, human trafficker, abettor of distribution of drugs or convicted person for the offence stipulated by paragraph 3 (C) of article 194 of Georgian Criminal Code and its transfer to the state) of the Civil Procedure Code of Georgia authorizing forfeiture of any unexplained or unsubstantiated wealth.

For the purposes of this article 194 of the Criminal Code of Georgia, property (income received from this property, shares) is considered to be unjustified, if relevant person (his/her family member, close relative or a person related to him/her) does not possess the documents which would confirm legality of

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<sup>122</sup> President Mikheil Saakashvili of Georgia in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank.

mentioned property, or is obtained as a result of selling illegal property. The same definition of the unjustified property is provided by Article 3 of the Law on Conflicts of Interest and Corruption in Public Service.

Article 52 of the Criminal Code of Georgia authorizes forfeiture of object of crime and/or proceeds from crime, i.e. taking means and/or object of crime and/or proceeds from crime, by the state without compensation. Proceeds from crime include criminally obtained property (material objects as well as rights on property and documents granting such right), income obtained from that property, or other equivalent property. Forfeiture of property, which is proceeds of crime shall be ordered by the court for all premeditated crimes, including the corruption related crimes. Furthermore, Georgian legislation, namely Article 52 of the Criminal Code introduced value confiscation, as required by various international instruments applicable to the anti-corruption and organized crime issues.

Along with the above-mentioned mechanisms, the one provided by Article 37<sup>1</sup> of the Criminal Procedure Code of Georgia, is one of the first mechanisms introduced in order to reclaim property stolen by the corrupt public officials. Under this system, if the prosecutor has reasonable doubt that the property in the ownership or stewardship of an accused public official is obtained as a result of corruption related crimes; he initiates a claim for the forfeiture of illegal or unjustified property, as well as income and shares received from such property. Forfeited illegal and unjustified property shall be transferred to the state. Paragraph 47 of Article 44 of the Criminal Procedure Code defines public official,<sup>123</sup> charged in crime committed against the interests of service while holding office in the public, entrepreneurial or other organization, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not.

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<sup>123</sup> *Note:* For the purpose of this article, a public official is to be defined as provided for in *Georgian Law on Conflict of Interests and Corruption*, under Article 2 of *Georgian Law on Conflict of Interests and Corruption*, a wide range of persons are considered to be public officials: Members of the Parliament of Georgia, heads and deputy heads of the High Representative and Executive Organs of the Autonomous Republics of Adjara and Abkhazia, Ministers and Deputy Ministers of Georgia, the Head of the structural division of the Ministry of Georgia or the person equal thereto, the Head of the structural division of the State Chancellery or the person equal thereto, Heads of Divisions of Customs and Tax Departments, Head of the Central Electoral Commission, Prosecutor and Deputy Prosecutor of Georgia, heads of divisions of the Office of the Prosecutor General, prosecutors, heads of local representative and executive bodies, judges, other persons elected or appointed based on constitution, etc.

Civil Procedure Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unjustified property and its transfer to the state. Based on Article 356<sup>2</sup> of the Civil Procedure Code of Georgia prosecutor is authorized to move with a motion on the seizure and confiscation of the illegal or unjustified property, as well as income and shares received from such wealth owned by the public official, racketeer, the member of the criminal circle, human trafficker, abettor of distribution of drugs or convicted person for the offence stipulated by paragraph 3 (C) of article 194 of Georgian Criminal Code.

Under Article 356<sup>2</sup> of the Civil Procedure Code of Georgia, prosecutor is entitled to present such claims against public officials, their family member and close relative or other related person.

Under Article 356<sup>3</sup> of the Civil Procedure Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be unjustified if in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property.

Under Article 356<sup>5</sup> of Civil Procedure Code of Georgia, in case the court finds the property to be unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established.

If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state, if the legitimate owner is not established. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property.

In addition, according to Article 356<sup>7</sup> of Civil Procedure Code of Georgia, if the Court confirms that illegal and unjustified property is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.

Since its introduction in 2004, a few dozens of high and mid-ranking public officials have been prosecuted and the State recovered the property worth of few

hundred millions. The volume of forfeited unjustified wealth is higher in 2005-2007 since the country started large scale and comprehensive fight against corruption since 2004.

Introduction of sound legislative foundation for the reform was a precondition for the institutional reform of the justice sector. The key for success was simultaneous reforms in all the relevant areas and strong political will for the changes despite the heavy criticism from the opponents.

### **3. JUDICIAL REFORM (REFORM OF THE COURT SYSTEM)**

Judicial reform has been one of the cornerstones of the justice sector reforms in Georgia. Georgian judiciary was corrupt, incompetent and enjoyed no trust in Georgian public. Ordinary people would rather go to a mafia boss to resolve his/her dispute, either criminal or civil in nature, than litigate in the courts of law.

The Government of Georgia under President Saakashvili considered judicial reform to be the linchpin in the process of democratic transformation.

Along with taking harsh measures against corruption in judiciary,<sup>124</sup> the Government has prepared a comprehensive plan, for the reform of Georgia's judicial branch. The reform strategy was developed in close consultation with experts and donors from the EU, OSCE, USAID, the Council of Europe, the American Bar Association, GTZ, SIDA, DFID, NORLAG, and many other international organizations. In addition, more than 30 domestic civil society groups advised the Government on the plan and have remained involved in the implementation process.

The Government has committed over 560 million USD to the judicial reform. Since 2006, monthly salaries of judges have been increased to 1,650 GEL (minimum salary) in the courts of first instance, and to 2,100 GEL on average in the courts of appeal. For Supreme Court judges, salaries will range from 3,100 GEL to 4,100 GEL per month.

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<sup>124</sup> *Note:* According to the Georgian Prosecutors' Office during the years of 2003-2010 30 judges were criminally prosecuted for corruption related offences; during the same period of time around 1100 police officers, 110 investigators, and 20 prosecutors were prosecuted for similar offences.

Priority has been placed on strengthening the independence of judges. Under the reformed system, judges will be appointed for life and the High Council of Justice—the administrative and disciplinary body that selects and disciplines judges—has greater oversight. Moreover, the composition of the High Council of Justice has changed significantly. For the first time, it is mostly composed of judges; Minister of Justice and Prosecutor General have been removed as members. These changes were implemented on June 1, 2006.

The reforms have rationalized the system and encouraged the specialization of judges. As a result, the general public is benefiting from improved access to justice, the more efficient use of human resources, and increasing professionalism within the judiciary. The reforms also increase the processing speed of cases in court, which means that the problem of overload is being systematically resolved.

The effectiveness of the ongoing reforms is reflected in how quickly the judicial system is now resolving commercial disputes. This achievement was reflected in the Doing Business index of the World Bank and the IFC, where Georgia recently ranked 30th in the world in 2013 in terms of the ease of enforcing contracts—a substantial improvement from its 2005 rank of 56th.<sup>125</sup> Georgia is now placed ahead of such countries as Portugal, Canada, Italy, South Africa, Greece, Bulgaria, Sweden, Spain, Czech Republic, Philippines, Argentina, Slovakia, Macedonia, FYR, Chile, Kuwait, Malaysia, Slovenia, Mexico, Israel, Poland, Brazil, Egypt, and India.<sup>126</sup>

Despite the reforms, which will be described in greater details below, judicial independence still remains a challenge. With the recent changes the imbalance between the state and non-state parties has been significantly remedied to the benefit of private parties. However, the low frequency of acquittals in criminal cases remains a problem. This, also, is expected to change with the planned introduction of jury trials.

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<sup>125</sup> Doing Business 2013: Smarter regulations for Small and Medium Sized Enterprises, the World Bank, International Finance Corporation, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf> ; Doing Business in 2005: Removing Obstacles to Growth, the World Bank, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB05-FullReport.pdf> .

<sup>126</sup> *Ibid.* Doing Business 2013: Smarter Regulations for Small and Medium Sized Enterprises.



## A. OPTIMIZATION OF JUDICIAL STRUCTURE

Before the reform, Georgian judiciary suffered with overloading and unduly protracted case examinations. One of the reasons of the excessive caseload and delay in serving the justice was division of work between the various instances of the judiciary. For instance, some cases were examined in the appellate courts first time, while the same courts were overloaded with the applications on appeals of the first instance court judgments. Rather than trying first offenses in appellate courts, the Government of Georgia moved the large caseload of first offenses to special first-instance courts in the regional court system. This reduced the bureaucracy within the system.

At the same time, for the optimization of the human and material resources, a number of small courts were merged in one larger court. For instance, in Tbilisi, several courts were merged into a larger, more effective judicial body. Instead of five courts, one Tbilisi City Court now functions with three thematic divisions. The new structure offers greater flexibility, more efficient resource use, and a favorable environment for speedy trials as some courts in Tbilisi had very few cases, while others suffered with excessive caseload.

After the reforms, 17 enlarged district courts were established throughout Georgia. The system's main advantage is that judges are now specialized in the district courts. It is also significant that all cases—except those under the purview of magistrate judges—will be heard by the specialized judges of the district courts, regardless of their complexity or subject.

One of the milestones in the reform effort was the establishment of the two courts of appeals in Georgia in November 2006.

Today, the essence of court instances have been clearly differentiated from each other, and the principle of Instanzenzug—the sequential order of instances, which is predominant in Europe—are precisely observed.

The Government of Georgia has adopted streamlined procedures that include an admissions stage for sorting out manifestly unwarranted appeals. This stage was also introduced for cassation courts.

As mentioned, the principle of so-called sequential order of instances, which represents an important mechanism for the internal control of judicial bodies, will be more effectively guaranteed in the reformed judicial system. According to this principle, the appeal and cassation (supreme) courts exercise procedural supervision with the procedural forms defined for the decisions of the courts of first instance—first by appealing and then by cassation.

The Supreme Court of Georgia has been re-established purely as the court of the cassation instance. The establishment and generalization of common judicial practice is of great significance. Clear criteria for eligibility of cassation appeals have been introduced; the Supreme Court considers a case eligible and accepts it for hearing only if it meets clear criteria.

As a result of these reforms, the Supreme Court is in fact becoming a doctrinal court that can more effectively develop justice and establish common judicial practice through argument-based explanation and correlation of judicial norms. This will guarantee the rapid and balanced functioning of the judiciary system in general.

Like the appellate court, the cassation court, the Supreme Court in Georgia's case, delivers an impartial final judgment and cannot refer the case back to the lower court for the re-examination. The referral of the cases back to the courts of lower instances was a malpractice that caused delay in serving the justice and often was a fertile soil for corruption.

Along with eradication of corruption from the judiciary, these changes have eliminated the difficult problem of case protraction in the judiciary system, insofar as at least 35-40 percent of the cases that are accepted for hearing are not admitted to the Supreme Court (the so-called "writ of certiorari" principle often used by the United States Supreme Court for instance to make sure that it examines only the cases that are most important for judicial practice or the interpretation of the law). Correspondingly, decisions made by the courts of appeals for the same number of cases remain effective.

## B. MAGISTRATE JUDGES

The aforementioned objectives of timely trials and access to justice, in particular in remote areas in the country were key factors in the decision to introduce magistrate judges to handle for instance the cases of pretrial detention in criminal cases and other minor matters in civil and administrative cases. Institute of Magistrate Judges has been introduced in judiciary since November 2005.

Magistrate judges—who deal with less serious civil and administrative cases and pre-trial detention matters in criminal cases — played very important role in reducing caseloads and ensure speedy trials.

The magistrate system constitutes part of the district court and enforces judicial authority in the administrative-territorial unit where the enlarged district court is not present.

### C. INTRODUCTION OF JURY TRIAL SYSTEM

Introduction of jury trial has been another important novelty in the judicial system of Georgia. As a result of the Soviet rule for almost seventy years, Georgia had had so called continental legal system – more correctly, the mixture of Russian and German models. The jury trial system was unknown for Georgia except a very short period of independence during 1918-1921 years when the Constitution of Georgia provided right to jury trial. Unfortunately, the democratic government of independent Georgia only had a very short time to develop and refine the system before the Red Army occupied the country in 1921 and forced the government leave for Europe.

In the modern Georgia, the introduction of jury trial system first appeared in the draft Criminal Procedure Code prepared in close cooperation with the Government, non-governmental sector and international donors for almost 5 years between 2005-2009. The United States Department of Justice was a key supporter of the novelty. The Georgian authorities supported the introduction of the jury trial as an important mechanism to make public part of the criminal justice process and thus increase transparency of the system and regain the public trust in judiciary.<sup>127</sup> During the Soviet time Georgian judiciary had been viewed as an oppressive mechanism of a foreign dominator – the Russian Federation. Later, during the years of independence, judiciary failed to regain the public trust, as it became corrupt institution. Therefore, some important

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<sup>127</sup> Jury Trials Institutes in Georgia, Heinrich Böll Stiftung, South Caucasus, available at <http://www.ge.boell.org/web/115-880.html>

measures needed to be taken to restore the public trust and confidence in the system.

However, even the supporters of the jury trial realised the sensitivity and delicacy of the reform. Therefore, the first cases of jury trial were conducted in Tbilisi only and in relation to specific crimes such as murder committed in aggravating circumstances, in the beginning of 2011.<sup>128</sup> The First verdict was issued by the end of the year of 2011.<sup>129</sup>

The Georgian jury trial system is very similar to the US system. According to the Criminal Procedure Code, 14 juries examine the case. They listen to the parties, witnesses, evaluate the evidence submitted by the parties and have final discussions/deliberations at the end of the hearings. The deliberations are confidential and nobody, including the judge sitting on the bench, can attend it. The final verdict on guilt or innocence is made by the jury. The verdict cannot be changed or modified by the judge. The judge/court can only decide on the type of sentence, though the jury may also recommend on the sentence. The judgment can be appealed in the Supreme Court but only on the questions of law.

The application of the jury trials has broadened gradually both in terms of the crimes and the geography. Today, it is no longer limited to Tbilisi and covers the second biggest city Kutaisi and various crimes against life and health.

#### D. HIGH COUNCIL OF JUSTICE

Historically, the High Council of Justice was an advisory body for the President of Georgia. The system has changed by the Law of June 19, 2007, and the High Council of Justice has been transformed into the highest authority for the administration of judiciary. Until the recent further reforms undertaken by the new Government of Georgia in 2013, the High Council of Justice was chaired by the Chairman of the Supreme Court of Georgia and has full and exclusive

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<sup>128</sup> Justice in Georgia: First Jury Trials Come to Growing Nation, March 2, 2011, GenNext, available at <http://www.gen-next.org/resources/blog/2011/3/2/justice-in-georgia-first-jury-trials-come-to-growing-nation/>

<sup>129</sup> Georgia: Tbilisi Jury Trial Marks Step Forward for Justice System, Giorgi Lomsadze, November 21, 2011, available at <http://www.eurasianet.org/node/64554>

authority to appoint and dismiss judges and to take disciplinary measures against the judges.<sup>130</sup>

Since 2007, the High Council of Justice is composed of 15 members out of whom 8 are acting judges elected by the Conference of Judges. Thus the decision-making power of the Council rests into the judges forming the majority of the Council. To contrast with the pre June 19, 2007 regulations, High Council of Justice consisted of 12 members – four appointed by the President, four appointed by the Parliament, one – by the Supreme Court of Georgia; Presidents of the High Court of Abkhazia and High Court of Adjara as well as the Minister of Justice were *ex officio* members of the Council.

In addition, the Secretary of the High Council of Justice, who also is the member of the Council, is now elected for three years period by the Conference of Judges upon the recommendation of the Chairman of the Supreme Court of Georgia in contrast to the previous provision which authorized the President to personally appoint the Secretary for period of four years.

As a part of new democratic reforms package within the Second Wave of Democratic reforms announced in 2009, one member of the High Council of Justice is now elected from the ranks of opposition MPs. This has guaranteed transparency in the work of the Council and allowed the parliamentary minority to take part in the oversight of the judiciary system, as well as in the process of reforms carried out in the High Council of Justice.

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<sup>130</sup> *Note:* The Government of Georgia that came into power after the 2012 Parliamentary elections initiated changes in the Law of Common Courts of Georgia that amended the rules of composition and appointment of the members of the High Council of Justice. According to the current regulations, out of the fifteen members of the HCJ, 9 will be elected by the Conference of Judges on a proposal of the judges themselves, Parliament will elect 6 members of the Council chosen from “the scholars working in the high educations institutions, members of a non-profit (non-commercial) legal persons working in the field of law and / or the members of the Georgian Bar Association, based on the recommendations of the managerial authorities of the same organization.” For more information on the new rules *see* Opinion on the Draft Amendments to the Organic Law on Court of general Jurisdiction of Georgia, Council of Europe Commission for Democracy Through Law, Venice 8-9 March 2013, available at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e).

## E. DISCIPLINARY RESPONSIBILITY OF JUDGES

An efficient mechanism of internal judicial discipline is crucial to ensuring successful reform, especially during its early stages. Because the entire system had been corrupted, the task of restoring public trust in the courts has necessitated a complete cleanup of the judiciary. At the same time, however, the Government of Georgia understood that an effective balance between independence and accountability of the judiciary is always crucial in a democratic society.

Amendments to the Law on Disciplinary Administration of Justice and Disciplinary Responsibilities of Judges of Common Courts of Georgia adopted on 15 March and 29 December of 2006 further secured the fullest possible autonomy and independence of judges.

According to the amendments, the Disciplinary Panel, which is formed at the High Council of Justice, examines alleged disciplinary violations committed by judges. It consists of six members, three of which are judges of the common courts and are elected to the Disciplinary Panel by the Conference of Judges upon the recommendation of the Chairman of the Supreme Court of Georgia.

On December 25, 2009 Parliament of Georgia adopted amendments to the law on “Disciplinary Responsibility and Disciplinary Legal Proceedings of Judges of Common Courts of Georgia” according to which, the chairman of the disciplinary board is elected from the judge members of the board. This excludes possibility of political influence on disciplinary processes against judges.

To ensure the full judicial supervision over the disciplinary proceedings, the decision of the Disciplinary Panel is not final and can be appealed to the Disciplinary Chamber of the Supreme Court. The Disciplinary Chamber of the Supreme Court represents the court of the last instance that hears the disciplinary cases against judges.

Judges subject to disciplinary proceedings have full opportunity to attend the hearings of disciplinary case discussed by the Panel and the Chamber, express their position and defend themselves either personally or through legal assistance.

Strengthening legal guarantees for judges subject to disciplinary proceedings is critical to ensure greater independence and avoid risk of intimidation and punishment of unfavourable judges by the elite in the judiciary.

#### F. LIFE-TIME APPOINTMENT OF JUDGES

The lifetime appointment of judges constitutes one of the basic steps towards the formation of independent judiciary. This principle as the constitutional guarantee of immutability and stability will create necessary conditions in order to facilitate the independence and protection of judges in their activities.

This issue has been taken up by the Constitutional Commission of Georgia established upon the initiative of the President of Georgia. The general objective of the Commission has been draft a new Constitution with enhanced system of checks and balances, a stronger Parliament and an independent judiciary. By July 2010, the Constitutional Commission finalized its work on draft amendments, which included proposal on the Life-Time Appointment of Judges.

#### G. EX PARTE COMMUNICATION

Another important guarantee for the independence of judges is a prohibition of the *ex-parte* communication with the judge.

In July 2007 the Parliament of Georgia adopted Law on Rules of Communication with Common Court Judges that outlawed any contact with the judge from a party involved, person concerned or public servant on the concrete case that violates the freedom of court.

Judges are obliged to inform the chairman of the relevant Court if such communication occurs. If such communication took place with a chairman of the Court, he/she must inform the chairman of the higher court. If this does not happen, she/he will be sanctioned by fine and initiation of disciplinary procedures.

In his appearance at political debates in the Parliament in July 2009, the President proposed expanding sanctions for prohibited communication (especially for such communications by public servants and high-level officials).

He also proposed making such violations a criminal offence in order to strengthen the preventive purpose of the legislation. The proposition was welcome by a wide spectrum of political actors as well as civil society and the judiciary itself.

After extensive consultations with judiciary representatives, civil society and experts, amendments to the law on “Rules of Communication with Common Court Judges” and to the criminal code were initiated in the Parliament. Proposals from NGOs have been taken into account. According to the amendments the fine for the violation of the rules of communication by public servant is increasing twofold, for state political officials the fine is increased threefold. Furthermore, the new amendment to the criminal code places stricter sanction upon state political officials who interfere with the judges of common courts. The package of amendments has been adopted by the Parliament of Georgia on February 26, 2010.

#### H. HIGH SCHOOL OF JUSTICE

In order to ensure effective administration of justice, trainings and re-qualification of judges is permanently conducted at the High School of Justice. High School of Justice in its new format has become operative since 2006. The aim of the School is the professional preparation of future judges with the purpose of filling the vacancies in the common court system with highly qualified specialists; periodical retraining of judges and upgrading their qualification with the purpose of their professional refinement remains one of the primary aims of the School.

The High School of Justice has started full functioning since 2007, as far as other than the central office (Tbilisi), the school’s regional training centers have been activated in Batumi (Adjara region in the Western seaside part of Georgia) and Tskaltubo (Imerti region in Western Georgia). Seminars are regularly held at repaired and well-equipped centers for sitting judges and for the students of the School of Justice (candidate for judges).

According to the Law on High School of Justice, completion of a full course at the School is mandatory to become a judge. The course at High School of Justice is 14 months. The curriculum consists of a theoretical course and practical seminars as well. After completing the mentioned course the candidates will have to pass the exam, and if they succeed they will be nominated by the Council of Justice of



Georgia for being appointed at vacant positions of judges without any other additional selection procedures. The order on their appointment is signed by the Chief Justice of the Supreme Court of Georgia. 12 new judges have already been appointed according to this procedure in 2009. Besides, presently two more groups of candidates (12 students) are currently attending the study course at the High School of Justice. While attending a study course a student of justice gets state scholarship, which represents another significant step of the reform.

The High School of Justice plays important role in improving professionalism of judges and creating future generation of judicial professionals. The independence, professionalism and ultimately public trust of the justice sector will very much depend on the successful functioning of the School.

## I. EQUIPMENT AND MODERNIZATION OF JUDICIARY

One of the objectives of the reform of judiciary has been the institutional reorganization of the system. As a part of the reform, most court buildings have been reconstructed and technically equipped; this has resulted into functionally well-established judicial system, where orderly instance principle is ensured.

The overall financing of Georgia's courts, including both the rehabilitation of facilities and remuneration for judges, has been increased since 2004 by 105 percent for the Supreme Court, 53 percent for appellate court, and 57 percent for municipal court.

Security has also been upgraded. While these changes certainly improve the social and working conditions of judges, they serve another purpose as well: By increasing salaries, establishing a system of training and career-long qualification augmentation (with relevant curricula and courses), and ensuring protection and stability, the package of judicial reforms aims to eliminate incentives for corruption. Without these conditions in place, a qualified and objective judiciary would not be able to exist.

During 2006, with financial assistance from the United Nations Development Program and partly with the Government of Georgia's own resources, a plan to create an integrated virtual network for the judiciary system was developed. The integrated virtual network, the case management system, was launched in 2011. When fully operational, such a network will, first and foremost, give judges

access to new and relevant information. Electronic versions of legislative amendments and additions published in the official journals are posted simultaneously on the network, and has thus become accessible to judges throughout Georgia.

The network has also reduced unnecessary replication of work, thereby enhancing the quality of information processing and speeding up case management. Court resolutions, session schedules, and case proceedings also will be posted on the Internet so as to facilitate the introduction of common judiciary practice and allow interested members of the public to access the information immediately.

Since 2010 the parties to a case have been able to access the information regarding their case on the web-site of the Tbilisi Court of Appeal. It is possible to open and download all the significant judgments, among them the final and pending ones from this web site. This novelty improves access to justice and facilitates the work of lawyers and other interested parties.

#### J. THE RESULTS OF THE REFORMS – INCREASED TRUST IN JUDICIARY

The ultimate goal of the judicial reform is increased public trust in the system that is necessary for democracy and the rule of law.

The public trust in judiciary has been increasing steadily in Georgia. It should be mentioned that it has not reached the level of trusts other institutions, police for instance, enjoyed but the trend is promising.

According to the 2012 survey on court user satisfaction manifests the trend:<sup>131</sup> users, including the parties to the case, judges, experts and observers gave 4.5 points out of 5 to the service provided by the judiciary. The trust in judges is in between of good and very good - 4.1 the lowest and 4.8 the highest out of the 5 points. The overall trust in judiciary was assessed as good giving 4.1 points out of the highest 5 points.

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<sup>131</sup> Qualitative Survey of Court Users Satisfaction, 2012, available at <http://www.supremecourt.ge/files/upload-file/pdf/Courtsatisfactionsurvey27062012.pdf> (only in Georgian).

In general, 58.8% of the court users are very satisfied or satisfied.<sup>132</sup> 50.4% of the respondents trust the judiciary.<sup>133</sup> 76.4% of the respondents believe that corruption is absent in the judiciary.<sup>134</sup>

This is a very important breakthrough compared to the findings of the similar survey conducted in 2008. In 2008, 30,8% of the respondent perceived judiciary as trustworthy institution; 29.1% of the respondent perceived judiciary as impartial. 61% of the respondent ranked independence and impartiality of the judiciary below average.<sup>135</sup>

At the same time, majority of the respondents, 52%, appreciated the infrastructural improvements in the sector and assessed the court buildings, in terms of the accessibility and user friendliness, as good.<sup>136</sup>

According to the survey, 41.6% of the respondents perceived the judicial workers as friendly and helpful.<sup>137</sup> 46% said that the judges were very attentive to their arguments at the hearing.<sup>138</sup>

According to the most recent survey conducted by the Ministry of Justice in cooperation with the European Union and GORGI, criminal court satisfaction index is the following:<sup>139</sup>

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<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

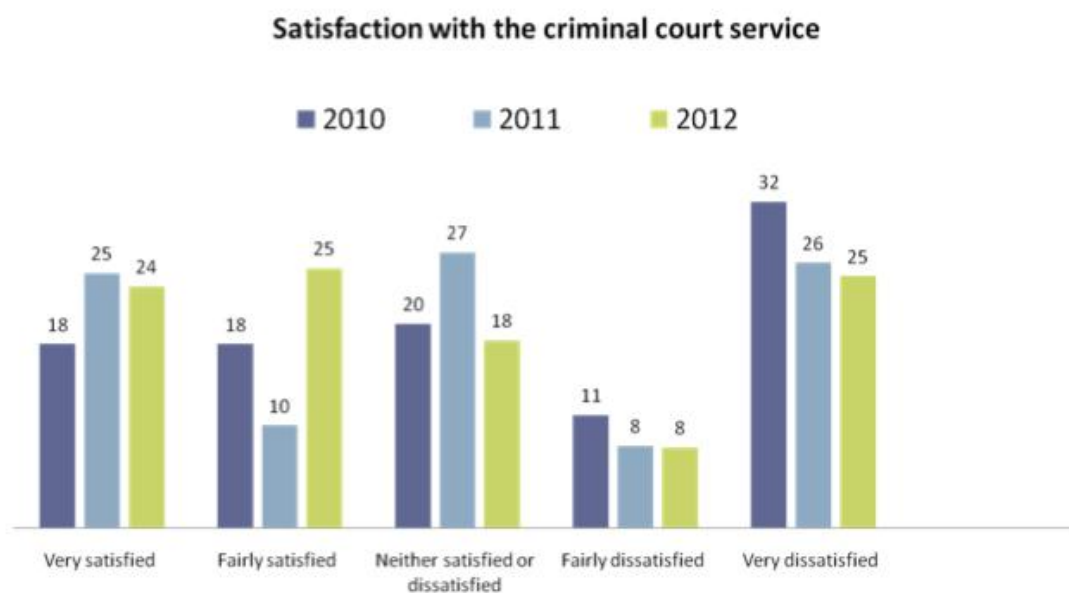
<sup>135</sup> Survey on Court Users Satisfaction, 2008, available at <http://www.supremecourt.ge/files/upload-file/pdf/geor.pdf>

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

<sup>139</sup> Crime and Security Survey 2012, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=856](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=856) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer surveys applied across the Europe. Attitudes on drug use have additionally been analyzed. Representative sample of 3001 respondents was chosen for the study.)



Despite the measures implemented judicial reforms are bound to be more time-consuming than other reforms in the justice sector. It requires time and resources to have truly independent, professional judges who deserve and enjoy public trust.

#### **4. PROSECUTION REFORM**

Before the reform, Prosecution service was excessively powerful, corrupt and closed institution in the justice sector.

The reforms in the Georgian procuracy started in almost immediately after the new Government took power in 2004.

The first phase of the prosecution reform included structural optimization of the system, introduction of sound legislative basis, establishment of the internal monitoring mechanisms and increasing of the capacity of prosecutors.

#### **First Phase of the Reforms:**

##### **A. INTRODUCTION OF A NEW RECRUITMENTS SYSTEM**

Before the reforms, it was impossible for a law graduate to become a prosecutor unless he/she had relatives, family members or friends in the system and was able to pay from 10,000 USD in bribes. This nepotism and corruption in the system discouraged the most competitive lawyers to become prosecutors and at the same time encouraged those appointed through the corruption to become part of the system and be corrupt.

Change of this practice was sine-qua-non for the reform.

Therefore, in 2005, a new model of recruitment was introduced. First time in the practice of the Prosecutors' Office, young lawyers were recruited through the open competition in law as well as in general skills and in specially designed integrity measurement tests. As a result, new generation of clean professionals with unquestioned reputation and integrity were given a chance to become a prosecutor. The new recruits worked as paid interns for six to twelve months and the best of them were appointed as full pledged prosecutors.

This mechanism of recruitment through internship was implemented on annual basis. It helped the reformers accumulate sufficient number of young people in the system and replace the part of older generation who was unwilling or unable to adjust to the new requirements.

Within the four years after the reform, the newly recruited professionals represented almost 70 % of the total staff. Some of them were promoted to head of department and district prosecutor.

This new generation of prosecutors became a driving force of the second phase of the reforms described below.

## B. ESTABLISHMENT OF GENERAL INSPECTIONS AND ADOPTION OF THE CODE OF ETHICS

Along with the rampant corruption and nepotism, prosecution service was short of professional ethics and standards. There was no effective internal monitoring in the system. Therefore, as early as in 2004, the department of General Inspection was established. On purpose, the first head of the department was an NGO activist from Georgian Young Lawyers Association.

Soon after, the Code of Ethics for Prosecutors was adopted that provided wide ranges of standards from dress code to the working hours and treatment of confidential information.

The General Inspections was authorized to investigate allegation on disciplinary violations and unethical behavior of a prosecutor and to suggest appropriate sanctions to the General Prosecutor.

The Department of General Inspections also worked on prevention and has identified number of recommendations to improve compliance of ethics and professional standards of prosecutors.

#### C. ESTABLISHMENT OF THE TRAINING CENTER AND INCREASING CAPACITY OF PROSECUTORS

Capacity building and increased professionalism of the prosecutors has been a priority throughout the reform process and during the first phase in particular. In order to ensure effective use of donor assistance and to have systemic rather than spontaneous solution of the problem small Training Center was established in the prosecution service.

In the beginning, the Center was focused on development of basic skills like use of fax machine, use of computer and ability to send and receive e-mails. These basic skills were missing in the prosecution service so severely that there had been one or two computer machines in the Office of General Prosecutor in Tbilisi and the regions were completely disconnected to the modern world.

Despite the trainings, unfortunately, most of the acting prosecutors were unable to pass the basic skills tests and were dismissed from their positions. The young generation hired through the competitive recruitment process described above replaced them.

As the reforms moved to more matured phase and the challenges in the system required different solutions, the small Training Center was merged into the Training center of Justice that became a centrum for developing comprehensive

professional curriculum in various fields of law and provided high class trainings with the participation of Georgian and international experts.

The Training Center for Justice has been playing vital role in providing continues education to prosecutors and investigators.

### **Second Phase of the Reforms:**

In November 2008, the position of Prosecutor General was abolished and the procuracy has become part of the Ministry of Justice. The new model is a mixture of the French and US models.

Currently the Office of Chief Prosecutor is a quasi autonomous branch of the Ministry of Justice. Chief Prosecutor is appointed by the President of Georgia upon the nomination of the Minister of Justice. He or she can be dismissed by the president only.

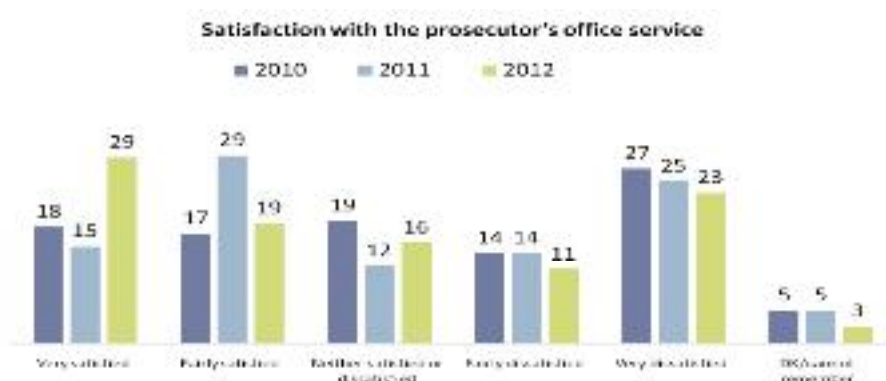
Prosecutors are independent in their activities and obey the law, while the Justice Minister is responsible for the criminal justice policy. For instance, Minister of Justice defines the priorities, such as zero tolerance towards certain categories or crimes, liberalization of the system towards the other categories etc. However, he/she cannot intervene in the investigation or prosecution of individual cases. Minister of Justice, unlike the Chief Prosecutor and ordinary prosecutors in the system, is a political appointee accountable to the President and the Parliament of Georgia.

In 2010, new phase of reforms started in the prosecution system. The aim was to make the system more transparent, open and more oriented to prevention of crime. For this end, various reforms were implemented in 2010-2012.

As a result of the bellow described reforms, the public trust in prosecution service has improved significantly:<sup>140</sup>

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<sup>140</sup> Crime and Security Survey 2012, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=856](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=856) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer



## A. PROSECUTION COUNCIL

In 2010 a public monitoring body, Prosecution Council was established. The aim of establishing the Prosecution Council was to increase the accountability before the public as well as to raise public confidence in the system.

The Prosecution Council comprises of representatives from the government bodies, NGOs, independent experts, academia and members of the Parliament. The Council holds regular meetings where Chief Prosecutor and other high-ranking officials would report about the pending projects, future plans as well as the existing systemic challenges. The Council is authorized to hear reports of the Department of General Inspections related to the imposition of disciplinary sanctions and promotion of prosecutors. The Council is also represented at the recruitment commission of the Office of Chief Prosecutor responsible for hiring new people in the system.

The Prosecution Council is not authorized to examine or discuss individual cases either pending or decided.

The establishment of the Prosecution Council proved to be useful as it helps to change, step-by-step, public perception about the system and also serves as a useful forum for exchange of ideas for the future reforms.

## B. COMMUNITY PROSECUTION

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surveys applied across the Europe. Attitudes on drug use have additionally been analyzed. Representative sample of 3001 respondents was chosen for the study).



In Georgia, like in many post Soviet countries government institutions were central and perceived as superior of everything else. Communities were ignored and considered less important compared to the elite called “inteligencia.”

One of the changes introduced by Saakshvili’s government was to go to the grassroots. This general trend was reflected in the reforms of the prosecutor’s office.

In 2007, Community Prosecution Project was established in a small town of Mtkheta near Tbilisi. The project has broadened and covered 15 communities in different regions of Georgia.

The Community Prosecution project aims to increase the public awareness of Prosecution Service’s activities and respond to the communities’ public safety needs and concerns; to improve the local public security and public trust to the prosecution service and the criminal justice system as a whole. Community Prosecutors aim to contribute to the reduction of instances of juvenile delinquency and crime prevention.

Within the framework of the Project a number of social and cultural activities, such as excursions, art competitions and exhibitions, conferences and seminars are organized. At the same time, prosecutors have regular meetings with school children and students at Public Schools and Universities of the region. Each office implementing the Community Prosecution project has its own concept that reflects the characteristic of the relevant region and noting the interests’ of specific target/vulnerable groups i.e. juveniles/children in conflict with law, national minorities and persons with disabilities. For instance, Community Prosecution project in one region would help young probationer to find a job, campaign against drug abuse and work with orphanages to help the children there find sustainable and crime free way of life. In another region, emphasis would be made on prevention of violent crimes, engagement of students in promotion and popularization of healthy life style and organizing charity events for the poor and vulnerable members of that community.

Community Prosecutors were closely cooperating with the Local Councils described bellow (particularly Educational Resource Centers) as well as

organizing jointly visits of students to the offices of the states institutions and to the local court houses.

The flexibility given to the local prosecutors to develop their own activity report helped the project to be responsive to the local needs and priorities. At the same time, the Office of Chief Prosecutor organized number of specialized training in communication skills and basic psychology to ensure that those involved in the project are well prepared for the job.

In the frameworks of the Community Prosecution, the Office of Chief Prosecutor launched the Community Prosecution Initiative (PSI). The PSI allowed prosecutors not only to be transparent in their activities, but also to receive first handed information about the needs and challenges of local communities, successfully direct its efforts towards conflict prevention on local level and increasing civic education among public.

### C. LOCAL COUNCILS

In May 2010, within the frameworks of the Interagency Coordination Council for Criminal Justice Reform, Local Councils were created in 15 regions of Georgia. Local Councils are forums on regional levels to bring relevant stakeholders together for the efficient implementation of the criminal justice reforms. Local Councils helped to ensure coordination of activities with the direct support of the Community Prosecutors and in cooperation of local NGOs.

Membership of the Local Councils includes Representative of the Community Prosecution, Representative of the Regional Probation Bureau, Representative of the Free Legal Aid, Local Police/District Inspector, Educational Resource Center, Judiciary, Local Self-Governance and Local Civil Society or/and Representative of the Public Defender.

The Local Councils are very important mechanisms to bring the reforms to the grassroots, get ideas from the, make public part of the planning process and probably most importantly for Georgia, increase civic responsibility and the sense of care of the own community among the people.

### D. VICTIMS ASSISTANCE CENTERS

Question on the victim's role in criminal justice system has been relevant in Georgia and in many other parts of the world. Before the reforms, Georgian law

enforcement and the procuracy in particular was overflowed by the family members and the relatives of victims of various crimes. In fact, they dictated the justice, which became more a personal revenge than the implementation of the law.

Later, in the process of the reform, the right of victim has been circumvented. At some point, the prosecution completely ignored the rights and grievances of the victims and the prosecutors became faceless enforcers of the law and criminal justice policy. Neither of these two extremes is helpful and healthy for the system.

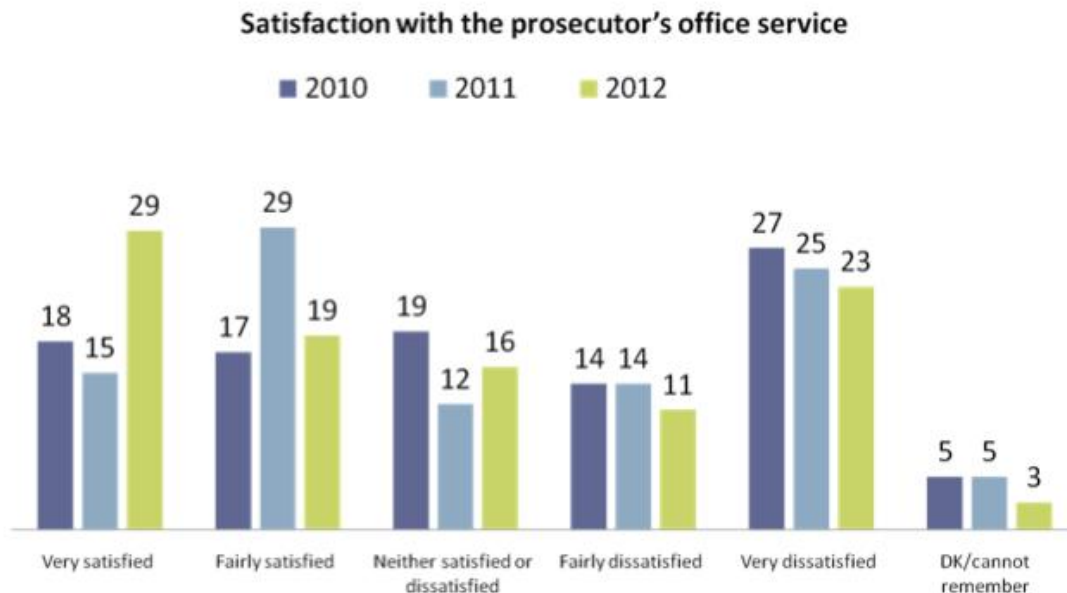
To address the existing challenge, the Victims Assistance Centers were established in the prosecution system. Victims Assistance Centers aim to give first hand assistance to the victims of the crime; namely, centers are mandated to:

- Consult a victim regarding his/her procedural rights;
- Explain to a victim the process of the registration of the crime and if necessary assist him/her receiving appropriate information;
- Assist a victim in organization of a meeting with relevant law enforcement representative;
- Recommend/divert a victim to appropriate legal aid and/or other referral/assistance programs (domestic violence, victims of trafficking, act.).

Victims' assistance centers have been piloted first in 3 big cities of Georgia (Tbilisi, Kutaisi and Batumi) where statistically most cases accumulate.

Consultants of the Victims Assistance Centers are not lawyers, but social workers or professionals with similar trainings. They are selected through an open competition based on their experience and qualification. To ensure professional quality of service, consultants have been trained in law related issues as well as in communication techniques and first aid to persons revealing psychological trauma.

As a result of increased transparency and more communication with the public, trust in prosecution service has increased over the years. Bellow is the survey that shows positive trend in this regard:<sup>141</sup>



## 5. PRISON REFORM

Georgia inherited Soviet type gulag prisons, which failed to meet any European and international standards.

Council of Europe Committee against Torture wrote in its 2001 Report on the visit to Georgia that the along with alarming conditions and violence from the prison guard, the inmates suffered from the existing power structures in the penitentiary which “apparently resulted in cases of extortion and intimidation, allegedly with some collusion of staff.”<sup>142</sup> The CPT described in the report the claims of the inmates about the cases of extortion of money by prison staff

<sup>141</sup> Crime and Security Survey 2012, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=856](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=856) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer surveys applied across the Europe. Attitudes on drug use have additionally been analyzed. Representative sample of 3001 respondents was chosen for the study.)

<sup>142</sup> Report to the Georgian Government on the Visit to Georgia carried out by the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (CPT), 6-18, May 2001, available at [http://www.cpt.coe.int/documents/geo/2002-14-inf-eng.htm#\\_Toc536516993](http://www.cpt.coe.int/documents/geo/2002-14-inf-eng.htm#_Toc536516993)

members in exchange for allowing them to exercise their rights or to be granted privileges.<sup>143</sup> The CPT delegation was told that the “aforementioned practices were commonplace on matters such as access to visits, medical care or accommodation under more favorable conditions.”<sup>144</sup>

Corruption was endemic in the system. It is cynical but it is true that the authorities confirmed to the CPT delegation that the corruption was one of the major problems in the system. According to the CPT Report, “the Minister of Justice openly referred to “large-scale extortion” of prisoners by staff.”<sup>145</sup>

De facto, prisons were ruled by mafia bosses and other criminal authorities. The conditions there were deplorable. Collection of money, so-called “obshiak” (common money for criminals) was a rule.

Prisons constituted a danger to the general public order in the country. The criminals detained there had sufficient freedom, in case of paying bribes to the guard, to contact the outside world and even plan and supervise criminal activities outside the prisons. In short, penitentiary in Georgia was a state in the state.

The Georgian Government under President Saakashvili knew that penitentiary reform was necessary for the effective fight against crime and organized crime in particular.

At the same time, along with fight against impunity and crime in the country, the prison population had been increasing significantly. Therefore, rehabilitation of infrastructure and improvement of detention conditions became a necessity.

Effectively functioning law enforcement institutions and the strong anti-criminal policy of the government had contributed to the growth of prison population. The growth was particularly vivid after the years of impunity. By February of 2008, there have been 18.170 inmates in the System. This figure was increased to 24.000 in 2010. After 2010 there has been no drastic changes in number of prison population and in 2012 the first signs of gradual decrease was witnessed.

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<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.*

## A. IMPROVEMENT OF INFRASTRUCTURE

Very soon after taking the power, Saakashvili's Government had to tackle poor conditions in prison that became more severe in light of the overcrowding.

One has to admit that it has been extremely difficult to bring the prison conditions in line with international standards in a limited period of time, since many of the existing problems had their generating roots in the long past and were closely tied to general problems the country is faced to.

In order to address the problem of overcrowding and poor prison conditions, Georgian Government took two sets of measures:

- First, the reconstruction of the existing prisons and the building of the new ones;
- Second, that is more related to the process of prosecution, the decrease of custodial forms of measures of constraint. It should be underlined that in 2007 the use of bail increased to 58% of all criminal cases.

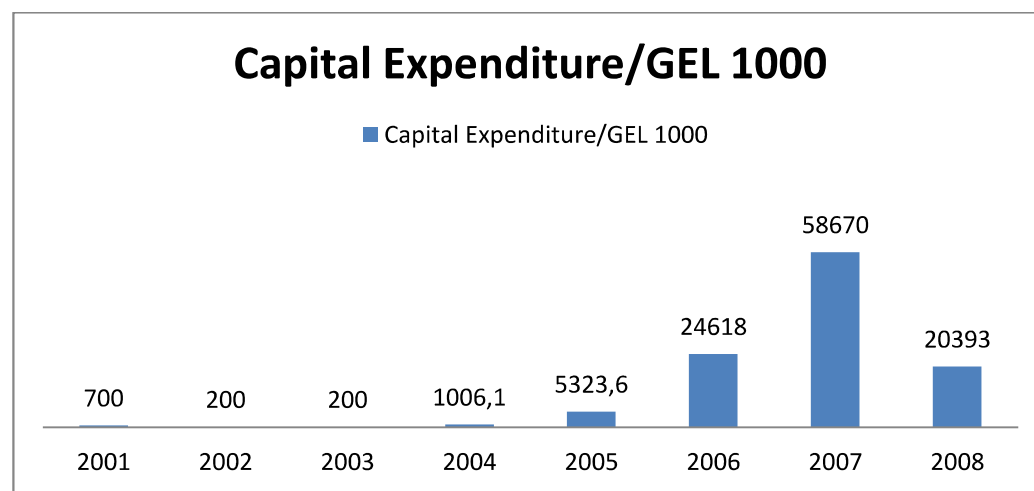
The first element will be described here, while the other will be covered in the chapter on liberalization – FROM ZERO TOLERANCE TO MORE LIBERAL CRIMINAL JUSTICE POLICY.

Reconstruction of existing establishments and construction of new ones started in 2005. As to 1 December 2007, from 17 penitentiary establishments serious overcrowding existed only in 5 institutions. Already by the year 2009, the conditions were similar and improved in every prison.

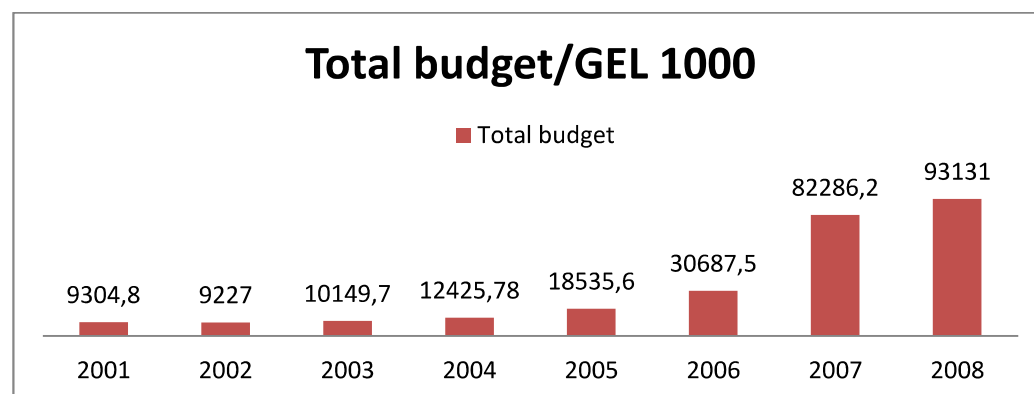
In 2007-2010, 10 new penitentiary establishments were built in Georgia with the total capacity of housing of around 18.000 prisoners. The others were totally reconstructed and refurbished to meet international and Council of Europe standards.

After the completion of the abovementioned constructions, the problem of overcrowding was resolved, though number of prison population per capita remained very high and the situation in terms of prison conditions have improved dramatically<sup>146</sup> as the new prisons were built according to the respective international standards with the participation of international experts.

Most capital expenditure was allocated in the years of 2007-2008:

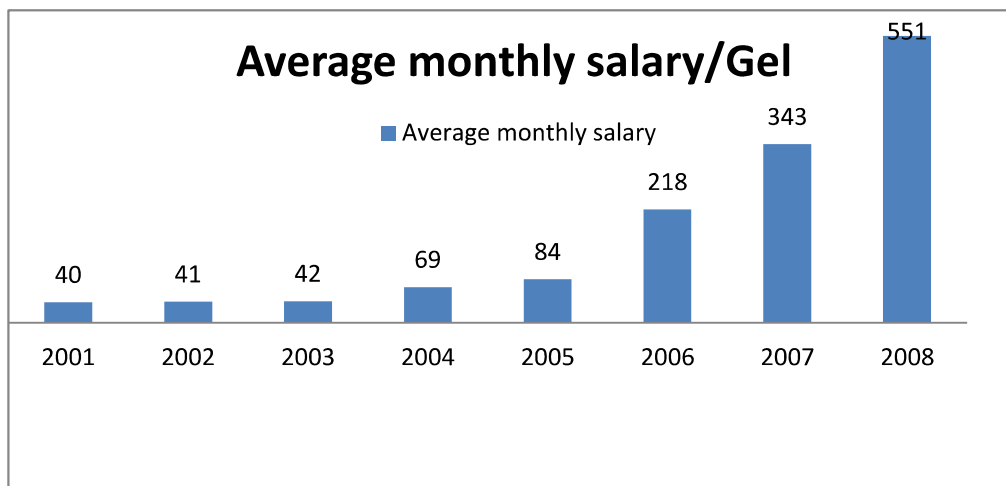


The total budget of the system has increase as well:



In the same period of time, salaries of the prison staff increase significantly to attract new people in the system to minimize risk of ill-treatment and corruption.

<sup>146</sup> Footnote needed CPT reports 2010.



The infrastructural projects continued after major constructions were completed in 2010. For instance, a modern penitentiary establishment was opened for women in 2010 and for juveniles in 2011.

#### B. HEALTHCARE IN PENITENTIARY

Healthcare has been a huge challenge in the penitentiary reform process. In the beginning of the reforms, it was considered that the lack of finances was the primary if not the sole reason of the failed and poor healthcare in the penitentiary. To resolve the problem, significant amount of money was allocated from the State Budget to the penitentiary healthcare.

To prevent deterioration of the health conditions, the system of massive check-up of incoming prisoners was introduced. This allowed medical personal to be aware of particular needs of an inmate and monitor his/her conditions accordingly. The procedures for transfer of prisoners to the medical establishments were simplified and streamlined so as the recommendation of a doctor was sufficient ground for the transfer and no authorization from the prison director was required. Besides, civilian hospitals were used more frequently to offer wider ranges of treatment when necessary. More doctors and medical professionals were hired to meet the increased requirements.

Despite the existing programs, such as tuberculosis screening programs DOTS, implemented in cooperation with the International Committee of Red Cross, the



problem of transmission became very acute as the number of inmates increased. To minimize the transmission risk, all prisoners have been given access to the examination for tuberculosis and treatment in compliance with the standards and recommendations of World Health Organization. C hepatitis, AIDS and other infectious diseases screening programs have been launched to tackle the increased risks of the deceases.

Despite the efforts made, the penitentiary healthcare remained a challenge for the authorities.

In 2007, the government introduced prisoner health insurance system. All national and international insurance companies have been invited to participate. The tender was won by a local insurance company, which after signing a contract with Department of Prisons became responsible for medical treatment of prisoners. The insurance plan provided extensive coverage of healthcare services. Particularly, the insurance fully covered costs and expenses for emergency ambulance, service of medical stuff of the penitentiary institutions, ambulatory care, medications, inpatient care, and emergency as well as planned dental health service. In addition, the insurance company was responsible to provide all prison institutions with necessary medications; increase the number of medical personnel and permanently deliver trainings to the latter. The medical staff that of the penitentiary system became employees of the insurance company.

The creative approach did not work and the authorities were forced to move back to the conventional arrangement. It is important to note that the penitentiary healthcare was never part of the civilian system and accordingly not regulated by the Ministry of Health, but was subordinated under the penitentiary department at the Ministry of Justice and later since 2008 to the Ministry of Corrections and Legal Aid.

In 2010, a new Medical Department has been created within the MCLA, which was in charge of administering and monitoring healthcare system in penitentiary establishments, providing healthcare services, managing finances, etc. Thus, the Medical Department does not fall under subordination of the Department of Penitentiary and was directly supervised by the Ministry.

Acknowledging the need of close cooperation, in February 2010, Ministry of Corrections and Legal Aid and Ministry of Health, Labor and Social Affairs issued Joint Decree approving the Penitentiary Healthcare Action Plan. By summer 2010, the Medical Department announced the initiative to review and adopt comprehensive Healthcare Strategy and Action Plan in coordination with the Penitentiary Working Group. It was further planned to defer the healthcare system to the Ministry of Health, Labor and Social Affairs by 2013.

Unfortunately, healthcare initiatives in the penitentiary were not as successful as they should have been. However, major reason of the problem lies not in the smaller scale penitentiary healthcare system, but in the civilian healthcare system of the country, which remains to be broken. Unfortunately, in light of the larger systemic problem, it became impossible to provide sustainable solution of the more localized problem in the penitentiary.

#### C. IMPROVEMENT OF LEGAL GUARANTEES FOR THE PRISONERS: ADOPTION OF THE NEW CODE OF IMPRISONMENT

In spring 2010, the Parliament of Georgia adopted the new Code on Imprisonment that entered into force on October 1, 2010. The Code was prepared by the group of experts in consultation with the Penitentiary Working Group within the Interagency Council for Criminal Justice Reforms. The drafters of the Code also benefited from the recommendations of the Council of Europe Experts.

The new Code provided wide range of guarantees for inmates. In particular, the mechanisms for complaint lodging, rules on disciplinary responsibility as well as rules early release have been streamlined. In 2011, the European Court of Human Rights in an individual case of *Goginashvili vs. Georgia* established that the new Code of Imprisonment was an effective domestic remedy for the violations of prisoners' rights.<sup>147</sup>

#### D. ESTABLISHMENT OF THE PAROLE BOARDS

Under the Code on Imprisonment, three parole boards were established under the supervision of the Ministry of Corrections and Legal Aid of Georgia. One of

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<sup>147</sup> Footnote needed

the aforementioned boards is specifically designed for juvenile offenders. The boards are composed of the following officials:

- one representative of the Ministry of Corrections and Legal Aid;
- one representative of PLP-National Agency of Execution of Non-Custodial Sentences and Probation;
- one representative of NGO;
- one representative of local self-government entity;
- one representative of the High Council of Justice.

The diverse composition of the board has been important for guaranteeing the independence and professionalism of the institution. For example, the participation of the representative of the Probation Agency in the decision making process of the Board makes it easier for the Agency to design appropriate probation and rehabilitative program for offender, which is an important pre-condition for successful re-socialization. In the similar manner, it is important for the Judiciary as well as local community to closely participate in the conditional release related matters.

At the same time, while examining early release of a juvenile, it is mandatory for the board to have at least one member who possesses a special experience of work with juveniles or/and has passed a special training in pedagogy and psychology. At the same time, juvenile must always be accompanied by the legal counsel or legal representative. The interview of the juvenile must be conducted with a special attention and care. The format and the procedure of the interview process must be understandable for the juvenile.

A list of criteria to be used in the decision making process was developed. In addition, each criterion was given its own coefficient, which is detrimental for the decision of the Board (coefficients 0, 1, 2 are used to evaluate the level of risk: the higher the coefficient, the higher the risk is). The criteria listed by the draft Statute are: 1) nature of the crime (instead of the gravity of crime) with coefficient 2; 2) the behavior of the offender during the imprisonment period with coefficient 1.5; 3) previous criminal and behavioral history the offender with coefficient 1.5; 4) family environment with coefficient 1 (it is worth to mention that this criterion is very important due to the detrimental role the family can play for the re-socialization of the juvenile offender); 5) the personality of the offender with coefficient 1.

## **6. REFORM OF THE PROBATION**

Probation service had been an ignored and neglected sector of the justice system. However, as prison overcrowding required multifaceted approach, probation moved up in the priority list. Modern probation service can play important role in rehabilitation of offenders and reducing risk of reoffending.

To ensure the coherence between penitentiary and probation services, both were put under the same umbrella of the Ministry of Corrections and Legal Aid. The idea of this structural reform was to ensure closer cooperation between probation and penitentiary so as to encourage early release from prison and placement under probation of less risky prisoners. This would help decrease of prison population but would contribute increase of the probationers.

Before the reform probation service was not ready for the ambitious goal of helping prisoners close to release and others conflict in law in resocialisation and rehabilitation. Probation Agency simply would register those sentenced to suspended sentence by the court. There was simply no cooperation between the penitentiary and probation.

In light of the above-mentioned, strengthening administrative capacity of the Probation Agency became a priority. Before the reform some probation officers, in particular those working in the big cities, had around one thousand case assigned. This caseload excluded them develop proper risks and needs assessments and provide individualized services to probationers.

By 2011 the workload of the probation officers throughout the country was decreased to, on average, 150 cases each. For this end, number of probation officers has increased almost threefold.

At the same time, with the assistance of international and domestic experts, individual risk assessment mechanism have developed and put in place to differentiate probationers with need for special services and those who required little or no service. For instance, juveniles, drug addicts, socially vulnerable groups required special treatment and assistance while some other categories of offenders, like those who committed neglectful crime and/or had job, family and social status required very little or no guidance.

Around 45 offices were opened in the regions to ensure nationwide coverage of the service. The offices had unified electronic communication and case management system that allowed the officers to effectively manage the cases and at the same time allowed the probationers to move from one region to another for family, work or any other reason without undue restrictions.

The status of the Probation Agency was changed from a ministerial department to an entity of public law that allowed the Agency to have more independence, flexibility and authority to raise money through donor assistance or other lawful means.

Approach towards human resources management has changed absolutely. Before the reform, the law required probation officers to have legal education. In 2010, the law was changed and social workers and psychologists were recruited in the Agency. This approach was necessary for the effective implementation of individual risk assessment and rehabilitation programs.

Each probation officers became obliged to receive special trainings in designated disciplines, mostly communication skills, psychology, pedagogy. Probation officers had to be involved in the continuous education program at the Training Center of the Ministry of Corrections and Legal Aid, which was responsible for developing training strategies, annual training plans and modules. The methodology and educational programs were drafted pursuant to the staff qualification requirements.

Special attention was always paid to probation and rehabilitation programs designated to juvenile offenders. Specially trained probation officers, social workers and psychologist were appointed to ensure coordinated work with the minors. Ministry of Corrections and Legal Aid as well as the Probation Agency closely cooperated with UNICEF on juvenile rehabilitation programs.

As a result of the reforms described bellow, the percentage rate of crime re-commission among probationers was reduced and amounted 9% of the total number of probationers. In addition, the rate of successfully (timely) terminated cases amounted to 96.02%. The same year, the imposed regime was alleviated to 2.5% of probationers and the conditional sentence was fully suspended for 0.4% of probationers.

## 7. FROM ZERO TOLERANCE TO MORE LIBERAL CRIMINAL JUSTICE POLICY

In 2004, President Mikheil Saakashvili announced zero tolerance policy towards crime. Introduction and implementation of the zero tolerance policy was motivated by the high rate of crime and rampant impunity in Georgia.

Zero tolerance policy inevitably resulted in increased prison population and has brought the challenges in this regard. Georgia spent significant amount of money to construct and reconstruct the prisons and make them compatible with international and Council of Europe Standards. At some point in 2007-2008, the country spent 1% of its GDP on penitentiary system.

However, the zero tolerance policy also brought safer streets, corruption free public service and healthy business sector in the country. These factors had determining roles in development of tourism industry and economy in general.

Bellow is a chart that shows percentage of Georgian population victimized for the six most frequently reported crimes over the years:<sup>148</sup>

	1993	1997	2003	2010	2011
Car theft	6.3	3.3	1.8	0.02	0.00
Theft from and out of car	10.8	10.7	9.2	0.8	0.3
Car vandalism	4.1	1.7	-----	0.3	0.2

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<sup>148</sup> The data is taken from *International Trends in Crime: the remarkable case of Georgia*, by Jan Van Dijk, Professor of Victimology and Human security, Tilburg University, The Netherlands; available at the Ministry of Justice of Georgia website [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=681](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=681).

Burglary	2.5	3.6	7.1	0.5	0.5
Attempted burglary	2.1	3	-----	0.1	0.1
Robbery/armed robbery	1.8	2.5	1.1	0.2	0.2
Theft of other personal property	3.5	6.5	2.8	0.8	0.2
Assault/threat	0.6	3.2	1.2	0.4	0.3

As a result of the zero tolerance policy, Georgia became one of the safest countries in the world; while Tbilisi is one of the safest capitals.

According to the Crime and Security Survey 2012 conducted by the Ministry of Justice of Georgia in cooperation with Georgian Opinion Research Business International (GORBI), the victimization index over the years has been as follows:<sup>149</sup>

	Last 5 yrs.	Last year	Last 5 yrs.	Last year	Last 5 yrs.	Last year	Last 5 yrs.	Last year	Last 5 yrs.	Last year
	1992		1996		2010		2011		2012	
Car theft (owners)	15.4	6.3	16.8	3.3	1.1	0.1	0.4	0.0	0.4	0.1
Theft from and out of car (owners)	31.1	10.8	34.7	10.7	7.27	2.2	3.6	0.9	3.0	0.9
Car vandalism (owners)	14.5	4.1	5.1	1.7	1.7	0.8	0.9	0.5	1.2	0.5
Burglary	9.9	2.5	13.8	3.6	2.7	0.5	2.2	0.5	1.6	0.3
Attempted burglary	8.2	2.1	9.7	3	1.2	0.1	0.7	0.1	0.5	0.1
Robbery/armed robbery	5.8	1.8	7.2	2.5	0.6	0.2	0.4	0.2	0.2	0.00
Theft of other personal property	13.4	3.5	19.1	6.5	2.1	0.8	1.0	0.2	0.9	0.2
Assault/threat *	5.3	0.6	7.9	3.2	1.1	0.18	1.1	0.5	1.0	0.4

<sup>149</sup> Crime and Security Survey 2012, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=856](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=856) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer surveys applied across the Europe. Representative sample of 3001 respondents was chosen for the study.)

According to the same survey, Georgia's position among other countries is the following:<sup>150</sup>

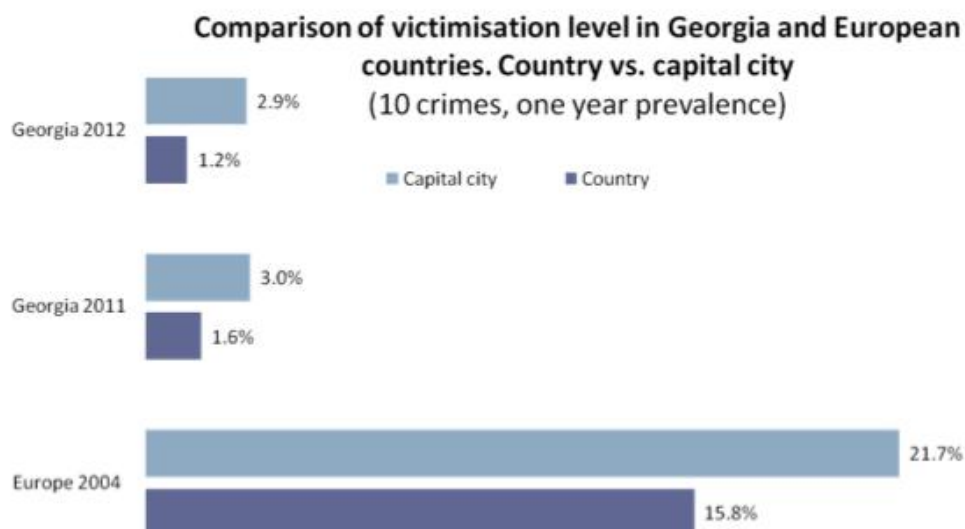
	Survey year	10 crimes	Car theft	Theft from and out of car	Motorcycle theft	Bicycle theft	Burglary	Attempted burglary	Robbery/armed robbery	Theft of other personal property	Sexual incidents against women	Assaults and threat of violence
Austria	2005	40.4	1.1	9.2	0.4	10.7	4.2	4.6	2.2	16.4	6.5	8.6
Bulgaria	2004	36	3.8	11.9	0.3	4.6	9.7	5.5	2.7	10.9	0.9	5.2
Denmark	2005	52.2	4.8	11.2	2.1	23	10.9	6.9	3	11.9	4.6	9.6
England and Wales	2005	49.7	7.2	20	2.1	7.9	9.5	8.5	6.2	14.8	3.8	13.8
Estonia	2004	58.2	3.5	17.4		13.7	13.6	9.3	7.5	18.2	2.8	8.7
Finland	2005	41.9	3.5	10.6	0.5	18.7	4.6	2.6	1.9	9.4	3.3	10.4
Germany	2005	43.1	2	10.1	0.6	13.9	3.5	5.2	1.8	14.7	6.5	12.1
Georgia	2010	11.1	0.4	2.6	0.04	0.2	2.7	1.2	0.6	2.1	0.1	1.1
Georgia	2011	7.0	0.2	1.2	0.05	0.04	2.2	0.7	0.4	1.0	0.1	1.1
Georgia	2012	6.1	0.2	1.2	0.04	0.4	1.6	0.5	0.2	0.9	0.1	0.8
Greece	2005	46.1	4.9	15.4	4.5	4.2	10.2	8.7	4.6	17.9	7.5	6.7
Hungary	2005	42.2	2.3	11.5	0.7	10.6	8.4	6.3	2.8	14.7	1.5	6.3
Italy	2005	43.3	6.3	10.2	2.9	8.1	10.5	7.8	2.6	10.7	1.7	4.1
Japan	2004	32.4	0.5	6.7	3.1	20.2	3.6	2.6	0.4	0.7	3	1.1
Mexico	2004	45.5	3.6	12.7	0.3	12.9	11	10.5	9.9	12.6	3.7	7.2
Holland	2005	58.3	2.8	17.1	1.5	28.9	6.4	7.1	3.4	15	6.1	13.9
Poland	2004	42.1	2.6	12.4	0.5	10.4	6.1	4.3	5.1	13.3	3.5	8.7
Portugal	2005	34.5	6.6	15.8	0.9	2.4	5.4	4.1	5.1	7.9	2	5.5
Spain	2005	42.7	6.1	18.1	1.9	3.2	5.2	4.5	5.9	12.4	1.4	9.7
Sweden	2005	51.1	4.5	16.6	2	22.2	4	2.8	2.7	11.3	6	12.5
USA	2004	40.2	3.9	15.2	0.4	7.3	6	6.5	2	14	10.7	11.2

Average victimization index in Tbilisi compared to average European index:<sup>151</sup>

<sup>150</sup> *Ibid.*

<sup>151</sup> *Ibid.*





In light of the above showed situation, Georgian Government considered that careful and gradual liberalization of criminal justice would not have adverse effect on public order and safety. At the same time, the low crime rate gave more time to police and prosecutors to work more on prevention of crime.

However, zero tolerance policy was maintained for corruption and organized crime.

The following policy has been implemented in the direction of liberalization of criminal justice sector in Georgia:

#### A. PROMOTION OF APPLICATION OF NON-CUSTODIAL SENTENCES

The prosecutors were encouraged to apply custodial measures, both at pre-trial and at the merits stages only in the extreme circumstances as a measure of the last resort.

This approach became possible only after the reform of the Probation Agency, which is responsible for the enforcement of non-custodial sentences. Both prosecutor and judge had greater confidence in achieving the goal of non-absconding, non-prevention of justice as well as rehabilitation and resocialisation within the reformed probation service.

The new Criminal procedure Code of 2010 provides for the extended list of pre-trial alternatives. According to the Article 205 of the CPC, detention shall be used as only the last coercive measure. Pre-trial detention can be used exclusively in cases where it is the only means: to prevent risk of absconding and obstruction of justice by the defendant; to prevent obstruction in obtaining evidence; or to prevent further commission of a crime by the defendant. The Code defines procedure and time-lines for request of the pre-trial measures.

Article 199 of the new CPC along with the pre-trial detention defines other non-custodial coercive measures such as *placement of the minor under the supervision, agreement on non-living residence and relevant behavior, bail, personal warranty* and supervision of conduct of a military serviceman by commanders-in-chief. The Code in detail manner addresses each of the pre-trial measure. The following may be also applied together with the aforementioned pre-trial measures: obligation of a person to appear in court at a set time or upon summons; the prohibition to undertake certain activities or pursue certain profession; obligation of daily or other periodic reporting to the court, police or other state agency; supervision of a agency appointed by the court; electronic monitoring; the obligation to be present at a certain place during certain time or without the latter; the prohibition to leave or enter a certain location; the prohibition to meet certain persons without special authorization; obligation to surrender passport or other identification document and any other measure determined by the court and necessary to reach the purpose of the preventive measure.

At the same time, the new Criminal Procedure Code of 2010, introduced the notion of discretionary prosecution, that allowed prosecutor to make a decision in favor on non-prosecution in cases of low risk of public order and safety. This novelty, one might argue, implies risk of corruption, however, in light of strong internal supervision and zero tolerance towards corruption, the risk was minimal compared to the benefits it brought in reduction of prison population.

According to the Criminal procedural Code of Georgia, initiation and implementation of criminal prosecution is only the discretionary power of the prosecutor. The criminal prosecution shall not be commenced or terminated if it is against the criminal policy.

During the implementation of discretionary authority prosecutor is guided by the law and the principles set in this document. In addition, the decision shall be

based on the belief of a prosecutor and factual circumstances of the concrete case.

Prosecutor uses wide discretionary power during the decision making process regarding the initiation of criminal prosecution. But there are established circumstances that prosecutor shall apply during the decision making process. The most important is that prosecutor shall be objective and impartial during the decision-making process and he/she shall not be influenced by subjective factors.

Prosecutor within the discretionary authority, taking into the account the established principles, shall decide according to his/her opinion how purposeful is the initiation of prosecution in a concrete case.

## B. INTRODUCTION OF DIVERSION AND MEDIATION

In the context of liberalization of criminal justice, diversion and mediation for juvenile offenders were introduced in the Criminal Procedure legislation. Later in 2012, diversion was extended for adults who committed less grave crime.

If the prosecutor has a reasonable doubt that a juvenile or an adult has committed a less grave crime for the first time, he/she may decide to divert the juvenile away from criminal prosecution.

When such a decision is made in relation to a juvenile, the prosecutor is obliged to contact social worker and hand over the case-file. The Social Worker shall then formulate a bio-psycho-social portrait of the juvenile and bearing in mind the juvenile's mental, physical and social conditions, shall draw up a civil contract.

The civil contract is signed by the juvenile, his/her parents, prosecutor, social worker and the victim of the crime. The victim is invited to participate in a conference with a juvenile. A concept of mediation (based on elements of a restorative justice approach) is used to develop terms of the agreement.

The juvenile shall be provided with the services that he/she needs. He will also be responsible to fulfill certain obligations. He will have to carry out a set of

concrete actions.

Diversion and mediation for juvenile offenders has been a project successfully implemented by the government in very close cooperation with various non-governmental organizations. The goal of the program is to help the juvenile become an improved citizen of the society. That is why rehabilitation and the social integration of the juvenile became significant components of the program.

After the agreement is reached, the social worker monitors compliance with the civil contract by the juvenile. In case the juvenile breached the civil contract, the social worker shall return juvenile's file to the prosecutor. The prosecutor has a right to start or resume criminal prosecution against the juvenile.

The ultimate goal of the program is to provide one chance to juvenile and help him to fulfill his obligations. Another goal of the program is to increase the level of crime victim's satisfaction and engage victims in supporting juveniles. The final goal of the program is to create a community, which is free of crime.

The diversion program has been introduced for adults who committed less grave crime. In this case, the offender shall satisfy the victim through compensation or other means and the criminal case will either be terminated or not initiated against him/her. The diverted adult will have no criminal record and does not have to plea guilty.

#### C. INTRODUCTION OF THE PROGRAM "MY SENIOR FRIEND"

The project "my senior friend" is implemented jointly by the Ministry of Justice and the UN Association of Georgia and aims at working with young people who have difficulties and require extra positive impact. The idea behind the program is to match the junior and senior friends, based on the similar personalities, interests and hobbies.

The mentorship lasts up to 12 months. During this time, volunteer mentors (senior friends) spend time with their junior friends, advise the juniors on issues of interest, motivate them for better academic performance, inspire for self-development, encourage reading, sports and healthy lifestyle, show examples of success, promote social responsibility and have fun together at the same time.

The goal of this one-on-one mentoring program is to prevent juvenile crime, strengthen youth's trust towards the society, improve minor's attitude towards school, promote social responsibility, make new friends and encourage young children to be successful in life. The program helps youth to develop confidence, sense of belonging to a community, and acceptance of responsibility for their actions.

At the same time, the program helps prevention of juvenile delinquency.

#### D. INTRODUCTION OF THE PROGRAM “CHOICE IS YOURS”

“Choice is yours” was initiated by the Ministry of Justice and has been implemented in cooperation with the Ministry of Education and Sciences. Project is focused on primary prevention of juvenile delinquency and aims at promoting the healthy way of life and contributing to order and safety at public schools.

Within the framework of the project successful and famous graduates of the school meet the pupils of the same school and deliver a presentation encouraging the young people to live a healthy way of life by sharing with them their experiences of how they achieved success in their lives.

#### E. REDUCTION OF CRIMINAL SENTENCE

In the beginning of 2009 with the aim of reforming penal legislation of Georgia, the Working Group on Liberalization of Penal Sanctions decided on reduction of sentence for certain most prevalent offences provided by the Criminal code of Georgia.

The Working Group based its choice of offences for which the sanctions are to be decreased on the statistics of recorded crime and convictions. Following deliberations within the WG, the draft amendments to the Code of Criminal Procedure were elaborated reducing the sentence for 26 most prevalent offences.

The crimes, which were selected for liberalization, are widely-spread crimes under the Criminal Code of Georgia. Pursuant to the existed criminalized situation, these crimes entail an imposition of high sanctions. One of the reasons

of elaboration of the Draft Law is the conducted survey – society’s opinion on sanctions imposed for particular crimes. It is worth to be mentioned that in certain cases the society’s opinion is strict – majority of society consider that particular crimes shall be punishable even severely than it is prescribed by the current legislation. Irrespective of the above mentioned, the draft Law provides mitigated sanctions for the purpose of criminal justice policy. The draft amendments have been submitted for consideration to Parliament of Georgia in summer 2010. Part from the aforementioned amendments, the Ministry of Justice has informed the Council about the initiative to initiate the revision of the entire Criminal Code of Georgia and address the challenging existing within the current provisions of the Code.

One of the first steps taken towards liberalization policy was the amendment of Article 59 of the Criminal Code of Georgia that addresses accumulation of the crimes and sentences in relation to the imposed sanctions in February 2010. The amended provision now notes that in case of accumulation of crimes envisaging imprisonment as a sanction, apart from the most severe sanction, the other one(s) are imposed for a period extending between half-term and full term of imprisonment and shall be added up to constitute the final punishment. This provision differs from the previous practice when all sanctions were merely added up.

## **8. POLICE REFORM**

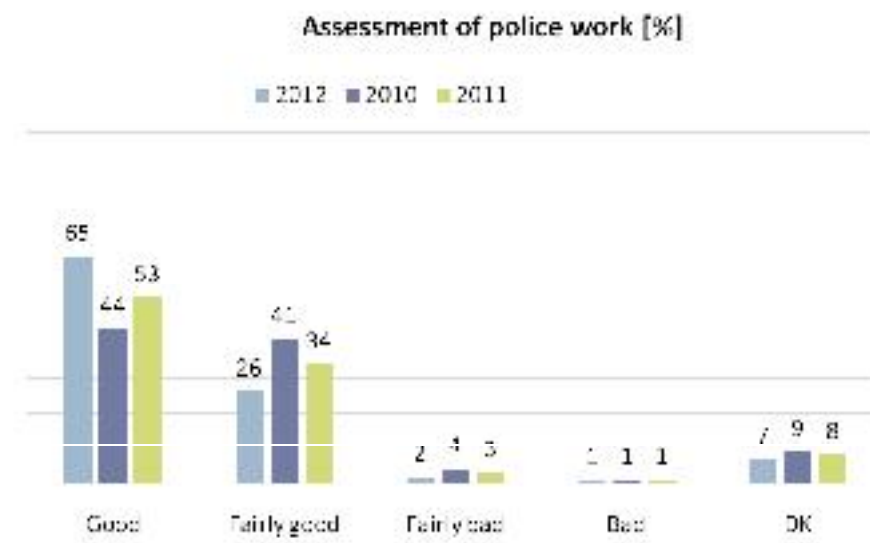
Police reform has been one of Georgia’s successes that distinguish Georgia from other Post-Soviet States. Georgian government had to take harsh measures, including mass firing of police officers in order to pave the way for deep-rooted institutional and educational problems in the system. The new police was professionally trained and instilled with an ethic standards that help overcome the systemic corruption inherited from the Soviet system. After the reform the police enjoyed around 85% of public trust compared to 10% in 2003.<sup>152</sup>

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<sup>152</sup> Georgian National Study, March 4-13, 2010, International Republican Institute Baltic Surveys Ltd. / The Gallup Organization The Institute of Polling And Marketing with funding from the United States Agency for International Development, available at <http://www.iri.org/sites/default/files/2010%20May%203%20Survey%20of%20Georgian%20Public%20Opinion,%20March%204-13,%202010.pdf> .

The Georgian crime survey conducted in concert with the International Crime Victimization Survey (ICVS), independent Dutch criminologists and the Ministry of Justice, finds that in 2010 a combined 66% of Georgians were either 'very confident' or 'confident' in the police.<sup>153</sup> These results are even more impressive for the Patrol Police taken on its own, which has a combined confidence rating of 81%.<sup>154</sup>

The assessment of the police work over 2010-2012 looks as follows:<sup>155</sup>



The assessment of Georgia's police performance in comparison to other states looks as follows according to the Crime and Security Survey 2012:<sup>156</sup>

<sup>153</sup> Georgian Crime Survey 2010, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/files/Documents/analitikuri/Final\\_Report\\_of\\_Crime\\_and\\_Security\\_Survey\\_of\\_georgia\\_1.pdf](http://www.justice.gov.ge/files/Documents/analitikuri/Final_Report_of_Crime_and_Security_Survey_of_georgia_1.pdf) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer surveys applied across the Europe. Representative sample of 3000 respondents was chosen for the study.)

<sup>154</sup> *Ibid.*

<sup>155</sup> Crime and Security Survey 2012, initiated by the Ministry of Justice of Georgia and conducted by Georgian Opinion Research Business International (GORBI), available at [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=856](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=856) (The Study was designed according to the standardized International Crime Victims Survey (ICVS) and Euro-barometer surveys applied across the Europe. Representative sample of 3001 respondents was chosen for the study.)

<sup>156</sup> *Ibid.*

Country	%
Finland	89
USA	88
Canada	86
Georgia 2012	91
Georgia 2011	87
Georgia 2010	85
New Zealand	84
Australia	82
Denmark	82
Austria	81
Scotland	79
Ireland	78
England and Wales	75
Great Britain	75
Germany	74
Norway	73
Belgium	71
Hungary	70
Holland	70
Northern Ireland	70
Switzerland	69
Portugal	67
Italy	65
Sweden	65
Japan	64
Luxemburg	62
France	60



<b>Spain</b>	58
<b>Greece</b>	57
<b>Estonia</b>	47
<b>Mexico</b>	44
<b>Poland</b>	41
<b>Average</b>	<b>70</b>

Importantly, perceived levels of corruption have been lowered: 80% thought the police corrupt in 2000 compared to just 24.6% in 2006.

Public perception of police has changed dramatically after the reform.

Before, the police was identified with torture, ill-treatment and arbitrary detention. Now, the police are viewed as a professional administration at the service of the Georgian people with modern facilities and transparent practices. Comparing Gerber and Mendelson's (2008) study of police misconduct in Russia (see below) and ICVS findings in Georgia shows you are more likely to be victim of physical abuse specifically by the police in Russia than to suffer any physical abuse at all in Georgia.<sup>157</sup>

In order to bring the police closer to the communities they serve, "neighborhood police officers/community police officers" were introduced in 2005 to work with communities on a daily basis. This has significantly improved communication between the police and the local communities.

Drastic measures have led to considerable reduction of corruption in police. 1064 policemen were prosecuted for different types of crime during 2003 and 2010. 90 police officers were arrested for bribery in 2005-2010 making it clear that zero tolerance policy was in effect.

The traffic police that was formally a corrupt division was completely dissolved in 2004. In total 16 000 officers were fired basically in one day. The Police Patrol

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<sup>157</sup> Anti-Corruption Reforms in Georgia, Opinion Polls: Georgians on Corruption, Caucasian Analytical Digest no. 26, 26 April, 2011.

Department was established to replace the corrupt traffic police. Patrol police has new mandate, new procedures and new staff of young and motivated professionals.

The average salary has increased ten-fold since 2003 and proper conditions, including new facilities, new vehicles, computers, etc. were provided.

The law-enforcement staff was reduced from 63 000 people to 27 000 people.

## **9. FREE LEGAL AID – ACCESS TO JUSTICE**

Efficient and functional justice sector is good only when every citizen is able to benefit of it. Therefore, establishment and development of the Free Legal Aid Service in Georgia has become an integral part of Criminal Justice Reform Strategy elaborated with the support of EUJUTS THEMIS as early as in 2004.

The draft Law on Legal Aid was elaborated in 2006 and was approved by the State Commission on Coordination of Legal Reforms and by the Government of Georgia in close cooperation with representatives of civil society and donor community.

The law entered into force on July 2, 2007. However, the Legal Aid Service became operational in 2009 after all logistic and financial issues were resolved by the Government.

Georgian model of free legal aid covers whole country and provides service to all categories of citizens despite their financial status. The territorial bureaus of Legal Aid Service cover all levels of criminal proceedings and administrative proceedings in the territory under its competence. The bureaus also provide free legal consultations on any matter and help citizens in drafting of legal documents such as wedding contract, claim, application, will, etc.

Attorney in the legal aid are lawyers qualified to practice law in Georgia. They are members of the Georgian Bar Association and shall comply with the ethics and other regulations of the GBA.

Legal aid service is autonomous and defines its *modus operandi* in line with the law adopted by the Parliament. Sub-laws and regulations are adopted by the head of legal aid service.

To increase the efficiency of the legal aid service and establish the trust in public, representative of an NGO, Georgian Young Lawyers Association, was appointed as the first head of the legal aid service.

Due to the functional independence and high quality of the service provided to the citizens legal aid is very well trusted institution in Georgia. Legal aid attorneys participate in hundreds of criminal and administrative cases on behalf of the citizens and have high rate of success than average lawyers in Georgia.

## Chapter 6 Conclusions

### 1. WHAT WAS ACHIEVED

Georgia has made tremendous and remarkable transformation in 9 years since 2004. Reforms implemented by President Mikheil Saakashvili and his team turned Georgia, almost a failed state in 2003, into a number 1 reformer in the world.

Georgia is now closer to its goal of Euro-Atlantic integration than it ever was. It has negotiated Associated Agreement with the European Union; has received simplified visa regime and Generalized System of Preferences +, GSP+, from the EU. Georgia has been designated formally as a strategic partner of the United States of America as the two states signed the Charter on Strategic Partnership in 2009. Its cooperation with NATO is more advanced than it was before: Georgia has been the largest per capita non-member contributor to the NATO's ISAF mission in Afghanistan.

The country had the first democratic change in government through elections in October 2012. Despite the fact that the October 2012 Parliamentary elections brought into power a political team that refuses to continue the path paved by Saakashvili's Government, the election, which entailed peaceful and democratic power transfer, is indeed important and historic achievement not only for Georgia and but also for the whole region.

Georgian economy, which was close to collapse in early 2000 has been reformed so much that it showed resilience towards the Russian embargo on Georgian agriculture products, wine and mineral waters in 2006, the war with Russia in 2008 and the state of occupation of 20% of the country's territories. The economy had been stable and positive despite the world financial crisis and political turmoil Georgia has been through. Probably more importantly, the economy has absorbed around 350 thousand internally displaced persons from the occupied regions. These families are unable to return to their homes and continue their natural ways of life. Their integration, including economic integration in other parts of the country has been a challenge for the Governments of Georgia since 1992.

Despite all those factors, Georgian economy has been increasing on average 6.2% rate. The budget has increased 7 times, from around 1 billion USD in 2003 to around 7 billion in 2012. The foreign direct investment has increased from 340 million USD in 2003 to

average 2 billion USD in 2007 and onwards.

Georgia is # 9 in the world in Doing Business, according to the World Bank's 2013 Survey.

Georgia managed to defeat corruption in public sector – a phenomenon well known and deep rooted in the region. Georgian public service is small, efficient, corruption free and modern. It is able to offer world-class services to its citizens and companies.

Georgia implemented significant reforms in the justice sector. Some of the justice sector reforms, such as reform of the judiciary, are more time and resource consuming than others. However, main pillars for the independent and impartial judicial system are present: corruption is eradicated from the system, infrastructure and material technical basis is strong, legal guarantees for independence of judges and other professionals are introduced.

Despite the remaining problems, reforms have been implemented in penitentiary and probation as well. 95% of penitentiary establishments are new, refurbished or newly built. Nutrition and medical care of prisoners has improved significantly. Probation service, as an effective mechanism for reducing prison population, has reformed substantially and can now provide necessary services to convicted persons. Accordingly, number of prison population has been decreasing steadily without prejudice to the public order and safety.

Georgian police is no longer a symbol of bribery, abuse and violence. It enjoys around 80% of public trust and is one of the most trusted institutions in Georgia.

The streets are free of crime as Georgia is one of the safest countries in Europe and Tbilisi – one of the safest capitals.

Georgia has become one of the top tourist destinations with renovated historic places and stunning modern architecture waiting for the visitors.

## **2. HOW IT WAS ACHIEVED?**

Systemic reforms require great deal of political strength and readiness to make a sacrifice. Very few people have doubts about the achievements of the Government of

Georgia in reforming the state's very fabric. However, the question is, how it was achieved?

Different people have different opinions on Georgia's transformation. The Economist wrote in 2009:

*"Today Georgia has reinvented itself as the star of the Caucasus. It is less corrupt than most former Soviet republics and one of the easiest places in the world to do business, according to the World Bank. Its liberalised economy has weathered Russian embargoes, and the state held together during the war with Russia. Its police do not take bribes and electricity is no longer a luxury. Most important, people are no longer surprised by such success. The biggest transformation is in their minds. [...] **The mental shift which has occurred in Georgia will make it hard to turn the country backwards.**"*<sup>158</sup>

In 2010, the World Bank, which has ranked Georgia as number 1 reformer for at least 5 years, published a book on Georgia's public sector reforms. The book is called *Fighting Corruption in Public Service: Chronicling Georgia's Reforms*. The author and contributor of the book had spent many years in Georgia in different official capacities on behalf of the World Bank. His analysis and conclusions are noteworthy. In identifying the reasons of the success, the author lists the ten tenets:

- Strong political will
- Establishing credibility of the Government from the outset
- Frontal vs fragmented assault on corruption
- Attracting the new, skilled and motivated staff
- Limiting the role of the state, i.e. "smaller state"
- Readiness and willingness to adopt unconventional solutions
- Ensure unity and coordination in the team
- Do not simply copy, but tailor International Experience to Local Conditions
- Harness technology
- Develop proper communication strategy.

These tenets are indeed important; probably some are more important than others. However, quantitative accumulation of them will, almost certainly, not guarantee the success.

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<sup>158</sup> Georgia's Mental Revolution, Seven Years after the Rose Revolution Georgia has Come a Long Way, The Economist, August 19, 2010, available at <http://www.economist.com/node/16847798>.

For instance, when it comes to the political will, one can argue that most governments, especially those who came into power with the reforms platform do have political will to change. However, it is difficult to ensure that the entire political spectrum shares, both the political will and the methods of its realization. Clear vision and readiness to make a sacrifice are indeed very important in delivering critical reforms.

In the case of Georgia, President Mikheil Saakashvili, who had more than 90% support in public in 2004, managed to maintain the unity inside the team and he was not afraid of loosing the popular support in exchange of the reforms.

Harsh reforms, including those related to the fight against crime, organized criminal groups and corruption affected almost every family and community in Georgia. Despite the desire to have better lives, it proved to be difficult for many Georgians to change their own life-styles. In addition, the first waves of public sector reforms left many people unemployed. Taken alone, reforms in police and the Public and Civil Registries left thousands without jobs. Most people who lost their jobs in public sector were unable to find alternatives on the market, as they lacked necessary skills required by the private sector.

For those reasons, *Inter alia*, President Saakashvili and his team were challenged by tens of thousands of protestors in the streets in Tbilisi in the autumn of 2007. The protestors were criticizing government for its harsh policies, including zero tolerance policy that affected many families, for relatively poor human rights records as well as for the poverty and unemployment. Still young and inexperienced government mishandled the protests and the President resigned in response to the public criticism.<sup>159</sup>

Despite the challenges, Saakashvili's government believed in what they were doing. The first results of the reforms in many areas were visible almost immediately. For instance, Government managed to pay salaries and pensions; electricity was made available on a daily basis, fight against corruption and organized crime brought safety in the streets in the first couple of years in the power. Therefore, the Government established itself as an efficient and committed. Even those who disliked the Government's policies did not question its efficiency.

Georgian people were keen of reforms, but they proved to be unprepared for the reform

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<sup>159</sup> *Note:* President Mikheil Saakashvili resigned after the police dispersed the protests in Tbilisi on November 7, 2007. The extraordinary Presidential elections were organized on January 5, 2008, where Mikehil Saakashvili received around 53% of the votes.

process. According to a former Prime Minister Lado Gurgendidze, Georgian people demanded the Government to ensure that the reforms were “fast, binary, simple, and pragmatic and tangibly improve the lives of large numbers of people.”<sup>160</sup>

President Saakashvili, himself shares the same view. According to him, “speed was absolutely critical. Georgia had no more time to lose. It came out in the character of the group—we were impatient, and we still are.”<sup>161</sup>

Frontal assault on corruption was indeed a key for the reforms unleashed by Saakashvili and his team of young reformers. Attacking corruption meant attacking the most influential and powerful parts of the Georgian society. The young Government had to show that they were committed to deliver and that they were not afraid of anything, including of physical retribution.

Due to the urgency, the Government had no time to plan the reforms in advance and develop step-by-step approach. In fact, everything was a priority and had to be taken care of simultaneously and immediately.

Many reforms were so interconnected that simultaneous approach was an absolute must. One of the reasons why most reforms failed during Shevardnadze’s government was the lack of comprehensive approach. For instance, in early 2000, Government announced reforms in the judiciary and introduced novelties there, though police, prosecution and prisons remained untouched. Therefore, the judicial reform failed. Saakashvili’s Government learnt the lesson from its predecessor.

Most people in President Saakashvili’s team were strong believers in a small state. The greatest example of which is a wide scale policy of deregulation of business activities that started in 2005 (number of licenses and permits were reduced almost ten times). In the words of a former Prime Minister Lado Gurgendidze, “this was a real experiment in the practical policies of liberty.”<sup>162</sup> For Kakha Bendukidze, the former Minister of Economy and Reforms Coordination, it was clear that “limiting the interface between the

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<sup>160</sup> Former Prime Minister of Georgia Lado Gurgendidze in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank.

<sup>161</sup> President Mikheil Saakashvili in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank.

<sup>162</sup> Former Prime Minister of Georgia Lado Gurgendidze in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank.



citizens and the state was essential to reduce the opportunities for corruption.”<sup>163</sup>

One of the keys for success was the Government’s ability to be brave enough and take non-conventional, often controversial, measures. For instance, the Ministry of Interior dismissed about 16 thousand police officers in one day – not many politicians can afford to such a measure.

List of non-conventional solutions is long. The Government introduced plea agreement (see the information about plea agreement in Chapter 5 Justice Sector Reforms) that helped them retrieve the wealth stolen by the corrupt public officials instead of locking them in jails for multiple years.

Saakashvili’s human resources policy has also been subject to controversies; Very young and often inexperienced people were appointed at the high positions such as minister, head of a region, etc.

The team of reformers often entertained with creative ideas that have often been criticized. For instance, in 2011, the Ministry of Justice announced that it was going to introduce Just Café and Just Drive (like McDrive in McDonalds) in its Public Service Hall providing different services to the citizens (for the detailed information on Public Service Hall see Chapter 4 Public Administration Reform).

All these measures, and not only them, were at least controversial both domestically and internationally. However, the Government believed in the need of change and did not spare any effort to achieve the goal.

These reforms were designed and implemented by individuals. Most of these people were in their early twenties and with no experience of public service. Many of them did not personally know Mikheil Saakashvili before joining his team.

However, Saakashvili, known as Misha in his team and in Georgian public, challenged the traditional approach and formed his Government with western educated, committed but

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<sup>163</sup> Former Minister of Reforms Coordination of Georgia Kakha Bendukidze in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank. *Note:* Kakha Bendukidze was a prosperous industrialist who had made his fortune in the Russian Federation. He was visiting Georgia and talking to members of the new government on the directions for economic policy when he was offered the job of minister of economic development—a post he immediately accepted.

inexperienced people. Misha himself was 37 years old when he became the President.

President Saakashvili strongly believed that commitment to rebuild the country was more important than experience in politics or in the Soviet style bureaucracy. For instance, the most successful Minister of Energy, Nika Gilauri, whose name is associated with the around the clock electricity supply in Georgia, and who later became a Prime Minister of Georgia, was “discovered” suddenly. He recalls that he was working with a power sector consulting company when he received a call from the government asking him to make a presentation to the then Prime Minister and a few ministers on his solutions for the power sector. After the presentation, he was offered the position of Minister of Energy. No doubt he accepted.<sup>164</sup> First Deputy Minister of Justice Tina Burjaliani was offered the position of Government Agent to the European Court of Human Rights at the age of 23. She left the job in one of the NGOs in London and joined the Government who could only pay 20 USD per month.<sup>165</sup> No hesitation from young westernized Georgians to go back and participate in the state-building in Georgia.

The 9 years of Saakashvili’s Government in Georgia was a generational shift – young idealists challenged almost everything in public administration, politics and even lifestyle in Georgia. This is why The Economist, cited above, claims that it was a “mental revolution” happening in Georgia.

### **3. CHALLENGES AHEAD**

Is it true that the Georgian Government did all right? The answer is - no. Could they have done better or differently? Different people have different answers to this question.

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<sup>164</sup> Former Prime Minister of Georgia Lado Gurgenzidze in Fighting Corruption in Public Services: Chronicling Georgia’s Reforms, the World Bank.

<sup>165</sup> *Note:* The Government addressed the issue of extremely low salaries almost immediately in 2004. Policy makers adopted unconventional method to solve the problem. An off-budget fund—financed partly from the Open Society Institute, the United Nations Development Programme, and voluntary contributions by companies and private businesspeople—helped provide performance bonuses to key staff across government agencies. At first, reformers believed that these funds would have to be maintained for several years, until tax collection improved. State revenues, however, increased at a much faster pace than originally expected, allowing the government to close the funds down quickly while still offering competitive salaries and bonuses.

The mere fact that the youngsters ruled the country and made important political and other decisions is enough to assume that the mistakes were inevitable.

Georgia was reformed and even reborn, but many challenges still remain.

Despite the efforts made, Georgian institutions are not sufficiently strong and established. In fact, some of them are stronger than others. For instance, in the justice sector, prosecutors' office has enjoyed visible superiority over others. Executive branch of the Government had been viewed to be stronger than judicial and legislative branches. As Transparency International notes in its National Integrity System Assessment for Georgia, "... the concentration of power at the top tier of the executive branch and the weak system of checks and balances creates possibilities for abuse and raises concerns about the commitment to the rule of law."<sup>166</sup> Much has been achieved in modernizing the judiciary, but more needs to be done. It has to become truly independent and powerful branch of the government.

Though, the Government started taking measures in order to ensure better checks and balances. The Council of Europe noted that the Constitutional amendments adopted by Parliament on October 15, 2010, "better guarantee the independence of the judiciary, substantially strengthen the role and powers of the parliament and provide for a better and more comprehensive system of checks and balances between the different branches of power".<sup>167</sup>

The state operation and management, almost at every level, still depend on individuals rather than institutions. Institutions were particularly weak in the first years of the government. Later, the focus was shifted to the institution building. While commenting on the challenges, Giga Bokeria, the head of the National Security Council, identified the need of strengthening institutions and human resources to establish a functional, professional, and highly qualified bureaucracy.<sup>168</sup>

In order to ensure sustainable democracy in Georgia, citizen voice in public policy formulation and implementation needs to be strengthened.

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<sup>166</sup> Transparency International, National Integrity System Assessment for Georgia, available at <http://transparency.ge/en/activity/national-integrity-system-nis-assessment>.

<sup>167</sup> The Honoring of Obligations and Commitments by Georgia, Council of Europe Parliamentary Assembly Resolution 1801(2011), available at <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17976&lang=EN>.

<sup>168</sup> President Mikheil Saakashvili's National Security Advisor Giga Bokeria in Fighting Corruption in Public Services: Chronicling Georgia's Reforms, the World Bank.

Although the economy was rebuilt from the ruins, it is still very much dependent on the Government policies. The economy is sensitive towards and volatile according to the country's political climate. Georgia is still a medium income country with the per capita GDP of 3500 USD. More focus is needed to ensure the stable GDP and economic growth.

Georgia's future, its stability and prosperity, lays in its full integration into the Euro-Atlantic institutions. Still much work needs to be done to achieve the goal.

The reforms implemented will be foundation for more democratic and prosperous Georgia.