საერთაშორისო გამჭვირვალობა – საქართველო
TRANSPARENCY INTERNATIONAL GEORGIA

WORK CARD

This is Transparency International Georgia's Spring Work Card 2012. It provides updates of the issues of our previous work card and gives a summary assessment of the key areas in the country that are of crucial importance to the development of a transparent, accountable and democratic state.

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

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All our research and analysis, including blog articles on current developments, are available online, at http://transparency.ge/en

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Update on previous Topics

1 *Open Government Partnership*

The Georgian Government submitted its Action Plan for Georgia at the OGP Annual Meeting, which was held April 7-8 in Brasilia, Brazil. Many of the issues identified in the previous Work Card were addressed, and the final Action Plan incorporated suggestions from several civil society organizations that will significantly advance the openness of the Georgian government over the course of the coming years. The NGO forum was created inframe this initiative. Georgia's Action Plan can be found at the OGP website, http://opengovpartnership.org .

2 *Party Financing*

- The campaign TI Georgia was involved in to advocate more clarity in newly amended regulations on Party Financing have reached major success. The campaign (It Affects You Too) involved numerous NGOs, media organisations and citizens, the draft law on amendments was delivered to the Parliament of Georgia. As a result, legislators agreed on changing number of vague and broad regulations improving legal environment and foreseeability of the law.
- The amendments will resolve problems related to unfair limitations of freedom of expression and political activity, limits to civic activities, property rights, severe criminal responsibility to voters. Chamber of Control of Georgia will not have unilateral power over property rights. Explicit and narrowly tailored regulations will be introduced.
- Although major improvements and clarity will be brought to the party financing regulations, some issues remain unsolved - legal entities are still banned from donating to parties, Chamber of Control has not elaborated procedures on its operations and some unjust sanctions over voters are still imposed.

In Focus

1. The television landscape before the October 2012 elections

Background

- TV remains the most important source of political news for 9 out of 10 Georgians. At the same time, most major TV stations continue to offer their viewers highly partisan news-coverage.
- The billionaire and leader of the opposition Georgian Dream coalition, Bidzina Ivanishvili, launched his own TV station, TV9, in early May. The station faces a high risk of becoming the opposition coalition's main mouthpiece, seeking to balance of the popular, nationwide channels Rustavi 2 and Imedi TV, whose coverage promotes the government and the ruling United National Movement party.
- So far, few Georgians can receive TV9, which is only broadcast via Turksat, online live-stream and by Global TV - a company that reaches about 18,000 households with its TV packages and is owned by Ivanishvili's brother. Most cable providers so far have refrained from including TV9 in their portfolio. Rustavi 2 and Imedi no longer allow Global TV to show their channels. Global TV, which has started offering de-facto free satellite dishes to interested clients, has alleged that receivers and other equipment were damaged while waiting for customs clearance.

- The emergence of TV9, while providing an outlet for opposition voices, might further exacerbate the polarized media environment, as the station hired talent from media outlets throughout Georgia, weakening the capacity of independent media ahead of the elections.
- Imedi and Rustavi 2 can be seen by around 95% of Georgian households. Two private channels that are not directly connected with major political groups, Maestro and Kavkasia TV, can only be seen in less than one third of households. The Georgian Public Broadcaster' Channel 1 can be received by about 80% of households, but its Channel 2, which offers live-coverage of political events and debates, can only reach one quarter of the population.
- About 43% of households receive their TV signal either through a cable provider or a satellite dish, according to CRRC's 2011 media survey (Tbilisi: 59%; other parts of Georgia: 36%). Only about 7% of households in Tbilisi and 22% (17% of respondents) of households outside the capital have their TV hooked up to a satellite dish. Due to increased competition and new pay-TV satellite providers (MagtiSat, BlackSea Sat) this rate is likely to increase in the coming months.

Recommendations

- All political actors should refrain from misusing the media for their own political goals and allow for free and non-partisan coverage of political campaigns in the months before the elections.

- The Georgian Parliament should consider and discuss changes to broadcasting regulation, including 'must carry' regulation that would set out rules requiring cable providers to include Georgian stations that provide programs with high public value in their packages. A 'must offer' rule would set requirements and conditions for TV stations to allow cable companies and satellite providers to re-broadcast their signal and make these channels accessible to their customers. These regulatory approaches would contribute to a more pluralistic media environment ahead of the elections, enabling more Georgians to watch different newscasts and have access to different political voices and opinions. A set of draft amendments that also covered these questions was submitted to Parliament in May by the "This Affects You Too" civil society campaign (of which TI Georgia is a member).

2. Abuse of Administrative Resources

Background

- According to the Georgian legislation (Election Code of Georgia, Administrative Violations Code) administrative resources include all kinds of state/public resources (material and nonmaterial) that can be used in favor of certain political party giving an unfair advantage over other political unions. Abuse of State Resources is sanctioned by Election Code with an administrative fine in amount of GEL 2 000 (Election Code. Art. 79 and Art. 88).
- There were many allegations with regard to intimidation of opposition parties' supporters. There also were many cases when school teachers, school directors and other public and civil servants were fired allegedly due to their political views. We verified many of these facts and will do the same in future.
- Especially before the elections Georgia's government initiated a number of programs, which might be considered as abuse of state fund. For instance: GoG's new social initiatives like "Summer Job"- one month student employment program. Taking into account the symbols, essence, the process of registration and implementation dates of the program, we could easily say that it might have served the interests of the ruling party at the expense of state finances by generating political dividends for the United National Movement during the pre-election period.

Recommendations:

- The Chamber of Control, Central Election Commission and other respective state institutions should properly investigate all cases potentially related to politically motivated abuse of administrative resources.
- GoG should refrain from making actions and proposing social initiatives that harm competitive electoral environment and grants political dividends to the ruling party at the expense of public resources.

3. Draft Code on Administrative Offenses

Background

- The current Code on Administrative Offenses was adopted on 15 December 1984. Since its adoption the Code was amended on many occasions.

- In 2011 the Parliament resumed working on the new draft of Code on Administrative Offenses.

- The proposed Code introduces significant changes to the existing regulations with regard to administrative violations. The institute of Administrative Agreement, which is non existent within the current Code is worthy of particular attention.

- Based on the Administrative Agreement, punishment can be administrative imprisonment as well as fine. The base for reaching Administrative Agreement can be consent to the administrative punishment and/or its execution rule. The agreement is made with an administrative body and is approved by the court.

- It follows from the proposed draft that the Court merely approves Administrative Agreement, which raises suspicions over the process becoming just a formal episode, where the Court will neither evaluate the terms of the agreement, nor investigate the circumstances leading to it, or evaluate the advisability of the punishment measure.

- The first hearing of the new draft already took place in the Parliament. Subsequently the draft was submitted to the Council of Europe for its expertise. The CoE experts presented their conclusions and recommendations. The Parliament is now working on reflecting the above in the draft code.

Recommendations:

- Active participation of the civil society in this process is essential.

- Administrative apprehension should only be used in case of severe necessity when no other measure will ensure reaching the goal. The bodies with an authority of apprehension should be clearly idefined. The rights of the detainee during apprehension should be explicitly stated.

- The 90 day term of the administrative imprisonment should be reviewed and reduced.