



# Work Card

Spring 2011

This is Transparency International Georgia's first Work Card on Georgia. It provides a summary assessment of the key areas in the country that are of crucial importance to the development of a transparent, accountable and democratic state. The Work Card will be published quarterly, covering different issues that are crucial for that specific period. At present, the key areas are **election environment**, **media transparency**, **property rights** and **competition**.

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.

Please direct questions to [ekag@transparency.ge](mailto:ekag@transparency.ge)

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

You can also follow our work on:

Twitter: <http://twitter.com/TIGeorgiaEng>

Facebook: <http://www.facebook.com/TransparencyInternationalGeorgia>



## 1. Election Environment

### *Election System*

- There are **150 seats in the Parliament**. 75 are elected through nationwide proportional system and another 75 through single mandate majoritarian system.
- The system is based on the **winner-takes-all principle**. This in effect means that it allows a party with only 30% of the voters' support to gain 70-80% of the seats in the Parliament.
- **Election districts for half of the seats in the Parliament are not based on population size**. It leads to wide variation in the size of constituencies, which contradicts the principle of equal weight of votes.

### *Use of Administrative Resources*

- **There is no clear line between party-related and public activities**. There are cases where public servants have been appointed, promoted and dismissed because of their political party belonging.
- **State-owned communication, transportation and other technical facilities are in practice more easily accessible for the ruling party** than for opposition parties. It is also not possible to oversee exactly for how long and under what conditions the ruling party is using a particular resource.

### *Party Finance*

- There is **no designated and permanent body responsible for a comprehensive oversight of legality of political parties' financing**. Financial reports drafted by political parties are often not comprehensive and accurate. Still, there has been no record of sanctions or notice clearly underlining these problems.
- The **ruling party's campaign funds are at least 7 times larger than all other political parties together**. In addition, the proportion of donations from legal entities (the main source of funding for political parties) to the ruling party is up to 100 times larger than donations to other parties.

### Recommendations

- **Replace the single mandate system with a model that guarantees a more fair allocation of seats in the Parliament**, considering the value of one vote.
- **Establish stronger legal mechanisms to prohibit public servants from participating in election campaigns, and enforce them**. Only political figures should have the right to participate in election campaigns.
- **Prohibit the use of state resources for election campaign purposes** in order to ensure equal conditions for candidates/political parties.
- **The body responsible for overseeing the financial reporting of parties should be permanent, with guarantees of independence**, and the process of appointing its members should be transparent.
- There should be a **criterion for a campaign expenses cap** to reduce huge differences between parties' resources.

## 2. Media Environment

### *Media Market*

- **There are more than 30 TV stations in Georgia**. The TV market is dominated by the country's pro-government national private TV stations. Some outspoken TV stations, have very limited reach as a number of cable providers is refusing to carry their signal. There is a small albeit pluralistic print media sector.



- **The advertising cake for the media sector is too small to support all media outlets currently in the market**, making it extremely difficult for media outlets to maintain their independence and become financially sustainable.
- **The lack of resources exacerbates difficult working conditions and extremely low salaries for journalists and media workers**, contributing to self-censorship and strong editorial interference by owners and management, resulting in a widespread lack of journalistic integrity and professionalism and low-quality products.
- **The advertising sector is controlled by a limited number of actors**, especially concerning marketers of advertising time on national television and outdoor advertising. Several independent media outlets have credibly claimed that potential clients have been discouraged from advertising with them. These actions might not only have a negative impact on commercial advertisers but might also endanger fair and equal access to advertising space in the run-up to the 2012 Parliamentary and 2013 Presidential elections.
- On a positive note, **several media outlets are striving to produce appealing and high-quality reporting** notwithstanding financial constraints.

#### *Broadcasting regulation*

- **Amendments to the Law on Broadcasting that were passed in April constitute a step in the right direction** and, if properly enforced, will significantly improve media ownership transparency and thus media accountability. From 2012 on, holders of broadcasting licenses has to be published. “Off-shore” ownership for broadcast media will be banned; however the definition of “off-shore zone” might turn out to be too vague for proper enforcement of the law.
- The **Georgian National Communications Commission (GNCC)**, the regulator responsible for broadcasting and telecommunications, **enjoys limited trust** and is not regarded as a politically independent body and fair referee.
- The **GNCC has been reluctant to enforce key parts of the Law on Broadcasting and the Law on Advertising**, as rigid enforcement could wipe many TV stations off the market. A number of local TV stations continue to receive illegal direct financial support from local government bodies.
- A survey commissioned by the GNCC which concluded that Georgians would like to see more entertainment rather than news and informative programming on television was used to define the regulator’s licensing priorities for the next two years. This has fueled **concerns that the GNCC might continue to refrain from issuing licenses to applicants planning to show current affairs programs**. Similarly, it is concerning that issuing licenses for community broadcasting (local non-profit radios mostly in ethnic minority regions) has been not been named a priority for the regulator.
- **Transition to digital terrestrial television broadcasting by 2015 will be a major financial, technical and political challenge**. The switch to digital television will potentially allow more stations to broadcast terrestrial signals. The process is likely to result in a major consolidation of the television market, as the switch to digital broadcasting will require significant investments not only on the side of viewers but also from TV stations.

#### **Recommendations**

- Civil society, the media and donors should continue to **pay close attention to the implementation and enforcement of media legislation** and help to strengthen the independence and accountability of the GNCC, including by closely monitoring its activities and decisions.
- **The government and the GNCC itself should step up efforts that would help to build public trust** and help the Commission to become a truly independent regulator.
- **Civil society, media and international organizations should more closely monitor sectors with a direct impact on the reach and financial sustainability of independent media outlets**, such as the ownership and market power of actors in the advertising sector, distribution, cable and telecommunications companies.



- **Donors should consider ways to support the transition to digital television by providing financial and/or technical support**, sharing expertise and monitoring the process from an early stage. The government should ensure that the transition process is open and inclusive and that an action plan, including a timeline of all necessary steps, is finalized soon.

### 3. Property Rights

- **A significant part of the land in Georgia is owned by the state, and privately owned land is sometimes not properly registered.**
- **Following the government's development of tourism infrastructure there have been many violations of property rights.** The violations have occurred mainly in the Black Sea region and in Mestia.
- **Revocations of ownership certificates have led to unlawful confiscations of land plots.** Expropriation procedures have violated Georgian legislation and contradict international standards.
- In some regions the **Property Rights Declaration Commission is inactive** and unlawfully refuses citizens seeking to exercise their ownership rights.
- **In some regions the Property Rights Declaration Commission has illegally granted and revoked property ownership.** This was the case in Gonio (on the Black Sea), when 200 certificates were abolished.
- **There is an absence of specific legal regulations for the protection of citizens' property rights**, mechanisms of compensation and a uniform state policy on resettlement issues.
- **The courts are reluctant to satisfy the claims of victims of property rights violations.**
- **Citizens have a low awareness of their legal rights and obligations**, such as the time-window to challenge the decision of a government body in court. This enables local authorities to make incorrect interpretations of the law without being held accountable, while victims are not in a position to dispute wrongful decisions.

#### Recommendations

- **Elaborate an effective state policy on resettlement issues.**
- **Raise the liability of the Property Rights Declaration Commission.** Victims should be reimbursed for the damage caused by the Commission's mistakes and illegal decisions to abolish ownership certificates.
- The Property Rights Declaration Commission should **establish control mechanisms for revocation of ownership certificates.**
- **Develop relevant, effective and fair compensation schemes for victims of property rights violations.**

### 4. Competition in Georgia

- **After the Rose Revolution most regulatory agencies were abolished** due to the government's ambition to free Georgian market from unnecessary bureaucracy. In addition, there is a lack of regulation in many fields that threatens to harm the quality and reliability of goods and services.
- **The competition environment is mainly regulated by the Law on Competition of Georgia.** The Agency for Free Trade and Competition (AFTC) became an independent agency supervised by the government in 2010. **Both the legal framework and AFTC's structure are too weak to ensure competition on the Georgian market.**
- **In December 2010 Georgia's National Competition Strategy was adopted.** It includes activities such as elaboration of a new framework law to assure free trade and competition on the



Georgian market, study of international best practices, and preparation of legal amendments in order to meet EU requirements for the Deep and Comprehensive Free Trade Agreement (DCFTA).

### **Recommendations**

- **Elaborate a new law on Free Trade and Competition taking into consideration EU best practices** and Georgia-specific conditions.
- **Increase the capacity and competence of the Agency for Free Trade and Competition.**
- **Focus on implementation of the national strategy on free trade and competition and make more clarifications to provisions and policies outlined in the strategy.** For instance additional clarification is needed in regards to definitions of dominant position (it should be defined what constitutes a dominant position).
- **Elaborate supervision mechanisms to overview how the law on competition is implemented** and how the agency works, how its political independence can be assured, and how effectively it assures competition and free trade. An advisory council could be created, also involving civil society organizations.
- **Civil society organizations should produce a parallel report on the implementation of National Competition Strategy** in order for all stakeholders to get a better overview of the situation.
- **Ensure transparency of the agency and create mechanisms for sharing public information.**
- **Elaborate a set of standard operating procedures for appeal council inside the agency.**