

Georgia's Democratic Development: Challenges and Problems

Report by GRASS (Georgia's Reforms Associates)

November 2014

Tbilisi



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TABLE OF CONTENTS:

1. POLITICAL LANDSCAPE -----	3
2. THE PARLIAMENT -----	10
3. THE GOVERNMENT -----	17
4. THE JUDICIARY -----	27
5. THE ELECTORAL SUSTEM AND THE SYSTEM OF SELF GOVERNANCE --	30
6. THE GEORGIAN ORTHODOX CHURCH AND ITS ROLE IN THE POLITICAL LIFE -----	36
7. PROTECTION OF MINORITY RIGHTS IN GEORGIA -----	41
8. STATE OF THE MEDIA -----	43
9. CIVIL SOCIETY -----	48

Georgia's Democratic Development: Challenges and Problems

1. POLITICAL LANDSCAPE

This section will cover the political landscape of the country, the role of political parties and other influential groups, their interaction and interplay, the major trends and characteristics of Georgia's political system as well as the general mood of society.

Political parties and strong personalities

After the 2012 parliamentary election, a bi-party, bi-polar political system emerged, with the Georgian Dream Coalition (GD) in power (led by former Prime Minister billionaire Bidzina Ivanishvili) and the United National Movement (UNM) in opposition (led by former President Mikheil Saakashvili).

Georgian politics is centered around political parties, which in turn are built around strong personalities. The population usually casts their votes either in favor or against the particular persons, as opposed to voting in favor of a political party's platform. It is also a common trait of Georgian politics that the parties and leaders that lose the elections then usually disappear from the political scene. 2012 was the first time in the history of Georgian politics that the losing political power survived and stayed on the political scene, maintaining support of core voters.

Currently, Georgian politics is dominated by former Prime Minister Bidzina Ivanishvili, who is the richest and most influential person in the country. His sudden appearance in politics in 2011 was a shock to the population and a surprise to the ruling party, as Ivanishvili had deliberately stayed out of politics and the public eye, and was more known for his charity than political interventions.

At that time, Georgian politics was dominated by the UNM and its leader Mikheil Saakashvili, who was often accused of authoritarian tendencies. Nonetheless, he had turned Georgia from a failed state into a country oriented to democratic reform and with a strong European identity. In 2012, the UNM lost elections to GD (55% vs. 41%) and peacefully handed over power, the first time there was a peaceful change in government in the history of Georgia.

Bidzina Ivanishvili is a strong leader and has proven to be a smart strategist and ruthless politician. He is keen on maintaining his grip on political power, despite the fact that he resigned from politics one year ago, in November 2013. He is not known to be religious, however he played the religious card very efficiently during his pre-election campaign, in a country where the Church has strong influence. He is also not necessarily a true believer in EU and NATO integration projects; however he managed to include in his alliance pro-Western parties like the Free Democrats and the Republicans. (The FDs left the GD coalition on November 5, 2014). It is quite clear that Ivanishvili is not a collegial player who listens to the others or is easily influenced by them. He enjoys controlling the political process, and regularly appoints or promotes such persons who are directly subordinated to him with a history of serving him personally (or the businesses he controls). The current prime minister was his personal assistant at Cartu Group; the current economy minister was his

associate at Cartu Bank. Ivanishvili's disagreement with President Margvelashvili (which will be discussed further down) was mainly because of the latter's unwillingness to be fully controlled by Ivanishvili.

Mikheil Saakashvili, unlike Ivanishvili, is a U.S.-educated lawyer who led the country's reforms for nine years and has been in politics for the last 20 years. Since 2007, however, he tightened his grip on power and was increasingly criticized for authoritarian tendencies, controlling the media, monopolizing the political spectrum, and violating human rights, particularly in the penitentiary system. Saakashvili has also proven to be a ruthless politician. He got rid of almost all political opponents and allies since 2003. His closest political allies, like ex-speaker of parliament Nino Burjanadze, ex-defense minister Irakli Okruashvili, and ex prime-minister Zurab Noghaidei, all moved to the opposition, as did Alasania and the Republicans (the latter were part of the ruling coalition in 2003-2004, while Alasania left Misha's government in 2008). Only a close circle of UNM decision-makers remained loyal throughout Saakashvili's rule. However, Saakashvili has proven that he had high regard for the opinions from his Western partners, and was unwilling to cross certain red lines such as rigging elections, arresting opposition leaders, or maintaining power by force after his party lost the elections in 2012.

The current political system is still dominated by these two individuals, even though Ivanishvili has moved to the backstage and does not demonstratively interfere in political affairs, and Saakashvili has been based in the United States for the last year. The personal hatred between the two men is immense, and it is hardly possible that the two will manage to peacefully co-exist in the same political spectrum. Ivanishvili supported obviously politically-motivated investigations into UNM leaders, including Saakashvili and his family, which seemingly for Saakashvili, crossed the red line. Ivanishvili, in turn, developed a personal hatred towards Saakashvili in the period leading to the 2012 elections, when Saakashvili strongly abused administrative resources to target Ivanishvili's active and money-laden election campaign. It should also be noted that Ivanishvili often effectively victimized himself by deliberately provoking a heavy-handed response from the government, particularly through exploiting the legislation on party financing through his unlimited financial resources.

It is our firm belief that the return of Saakashvili to the political scene is an absolute no-go for Ivanishvili, who is probably afraid for his personal safety in the case of a turn of events. Meanwhile, until the next elections, Ivanishvili will try to fully decapitate the UNM, whose two major political leaders (former Interior Minister and Prime Minister Vano Merabishvili, and former Mayor of Tbilisi Gigi Ugulava) are in prison, and another two are abroad fleeing prosecution (Saakashvili and former Minister of Justice Zurab Adeishvili). Of the initial most powerful five figures, only Giga Bokeria (former National Security Advisor) remains at large, however there is a case pending against him and Ivanishvili has, on several occasions, stressed that Bokeria should be arrested for squandering state finances and paying international lobbying organizations to the detriment of national interests.

The biggest challenge for the current political system is to move away from personality-dominated politics to party- and platform-dominated politics. This does not seem to be the current direction, however, since neither the Georgian Dream nor the UNM are trying to detach themselves from their strong leaders.

Georgian Dream vs. United National Movement

Georgian Dream came to power in 2012 as a result of peaceful parliamentary elections, following nine years of United National Movement in power. It is hard to say what is the GD's clear political platform, as it was assembled by Bidzina Ivanishvili and consists of political leaders who were united in their hatred towards Saakashvili and the UNM. Moreover, fighting the UNM still remains one of the key uniting elements of the coalition.

Platform-wise, the GD coalition is probably closest to the Socialist-Democratic platform, however the presence of Republicans and Conservatives in the coalition gives it some elements of liberal democratic platform. The Georgian Dream party is trying to join the European Socialists' (PES) family, whereas the Republicans, Conservatives, and Free Democrats are members of the Alliance of Liberals and Democrats (ALDE) group.

Most of the policy actions by the coalition have been oriented towards protecting national production and exports, curbing migration, increasing social spending, supporting the Church, and advocating Euro-Atlantic integration – but in parallel with normalizing relations with Russia. GD also focuses on human rights protection and has claimed that the major reason why the population supported them over the UNM was because of the UNM's human rights abuses. The breakaway regions of Abkhazia and South Ossetia always figure high on the domestic political agendas of all the parties, however the GD never managed to formulate a clear policy towards these regions. Confidence-building and bilateral ties with Abkhaz and Ossetians were always stressed by leading GD politicians, however these ideas fell short of a clearly formulated strategy and vision, not even speaking of the concrete implementation of these measures.

In contrast, the UNM is known for libertarian economic policies and the propensity to deregulate, while attracting foreign investors and opening the country to foreign businesspeople. At the same time, they implemented several contradictory social projects (such as distributing social vouchers), especially during the pre-election period. Priority was given to major infrastructure projects and boosting tourism, at the expense of visa free relations with Iran, the North Caucasus, and Arab countries. The UNM took quite a modest stance towards the Church. However local conditions -- such as extraordinarily high public approval of the Patriarch -- prompted the UNM not to be vocal on church-state relations. European and Euro-Atlantic integration were high on the UNM agenda, as the party propagates integration into the EU and NATO. The UNM is an observer in the European People's Party and manages to exert serious influence on the EPP's position towards internal developments. UNM has always advocated an aggressive foreign policy towards Russia based on a non-recognition policy and establishing Russia's role as an occupying power in the international arena. The UNM's rhetoric towards Russia remains extremely hostile, unlike the GD, who have established a bilateral dialogue channel and partly re-opened trade with Russia.

Both parties face challenges, although different ones. For the Georgian Dream, the main challenge is to develop a strong party platform and popular support based on their ideology, not only on Bidzina Ivanishvili's appeal and money. GD has failed to deliver on a number of political promises and is perceived to be ineffective in administering their policies, which has translated into decreased support and potentially apathy and lower voter turnout among its supporters. GD also will face serious crises if the coalition continues to collapse

and the Republicans and/or the Conservatives decide to withdraw. In such a scenario, they will need to reinvent themselves with a more positive agenda, as opposed to merely portraying themselves as those who saved Georgia from the UNM's 9-year rule. GD also has a problem of finding new faces, particularly from the young generation. The majority of GD politicians are above 50 and are not popular, but they still get by due to Ivanishvili's popularity.

UNM, on the other hand, faces a serious challenge rebranding itself, which it finds impossible to do because its leaders are constantly under attack. Rebranding, or ridding itself of the old unpopular faces, could lead to them losing their core supporters, which have been the UNM's biggest asset in the last years. For this reason, UNM is unable to detach itself from such unpopular faces as Bacho Akhalaia, who still has quite an influential support group within the UNM. The number of UNM core supporters has remained steadily above 20% in the last two elections, which clearly shows that the core electorate is consolidated. However, as UNM strives to maintain the core electorate, it has problems reaching out to the undecided, particularly those who have been negatively affected by UNM rule (zero tolerance policy towards crime, illiberal drug abuse policies, attempts to curb media freedoms, and draconian party fundraising from businesses). UNM has tried to put forward some new faces -- Zurab Japaridze, Sergo Ratiani, Giorgi Vashadze, Nika Melia, among others -- however has failed to make this process complete and permanent. There are rumors about internal disagreements regarding the future of the party, however despite this, UNM did manage to survive. Its biggest challenge will be to create a positive agenda for gaining the population's support, as opposed to pursuing anti-government rhetoric and actions, which is a traditional path in Georgian politics.

Political prosecutions

Investigations and arrests of former government officials and current UNM party members have become one of the most widely discussed political issues in the Georgian public as well as among international interlocutors. It has also become a source of permanent international criticism of the Georgian government.

More than 30 members of the previous government, including President Saakashvili, have been charged with criminal offenses. Some have fled the country. 14 have been arrested or put in pre-trial detention, including three key UNM leaders (former Prime Minister and Secretary General of the UNM Vano Merabishvili, former Mayor of Tbilisi Gigi Ugulava, former Defense Minister Bacho Akhalaia). According to the UNM, thousands of party activists have been interrogated. UNM has labeled the prosecutions as politically motivated, revanchist, and aimed at eliminating the opposition party.

On the other hand, the government claims that arrests and investigations are part of the "restoration of justice," and resulted from thousands of complaints brought by citizens to the Prosecutor's Office regarding violations and abuses by the previous government. There have been credible reports of some criminal activities, including videos of prison torture aired on TV during the pre-election period.

While the government claims that the investigations have no political motivation and that nobody is above the law, there are several factors that raise concerns of political prosecutions.

1) Selective Justice and/or the perception of selective justice: The way the government and the Prosecutor's Office treat alleged criminal cases show that there is a clear pattern of selective justice. No criminal charges have been brought against any UNM member who switched parties since 2012; in some cases, investigations stopped altogether after the persons changed their party allegiance and left the UNM. There is clearly a more loyal treatment of GD supporters or members of the coalition and the government who are under investigation. While members of the UNM leadership were put in pre-trial detention over charges of mispending or abuse of power, in the case of current government members, such as a former deputy interior minister and a former minister of agriculture, no such measures were used. Both were released from their duties, but no further measures were sought against them by the Prosecutor's Office. Special treatment was given to Mr. Bedukadze, who was an alleged whistleblower regarding crimes in the prisons, and who had publicly admitted to torturing prisoners; he was released by the Prosecutor General and all charges against him were dropped, which caused public indignation. Other examples of selective justice include cases of physical attacks by GD supporters on UNM members. Most perpetrators are either not investigated or simply fined administrative fees, while in similar cases, UNM supporters are charged with criminal offenses. Furthermore, the Prosecutor's Office has not pressed charges on the credible reports of serious procedural violations in the cases of Merabishvili and Ugulava (the procedure terminating Ugulava's mayoral term; alleged illegal removal of Merabishvili from his prison cell in the middle of the night in December 2013).

2) Government officials' political statements/ disregard for the presumption of innocence. High-level government officials, including the previous and current prime ministers and the minister of justice continuously label the UNM and the previous government as criminals when speaking in general and while referring to particular cases under investigation. There have been several cases where the political leadership has announced in advance future investigation or arrests against particular persons. PM Garibashvili has several times declared that the UNM as a party should be eliminated and has no right to exist. In cases of physical assaults against UNM party members, high-level GD representatives tend to justify the offenses in their public statements, referring to the "criminality" of the UNM.

3) The nature of investigations. In most of the cases, it appears that it is a particular person who is investigated, rather than the facts of violations. That is why political opponents are usually charged with a number of criminal offenses simultaneously. This was true of Bacho Akhalaia (9 simultaneous cases), Ivane Merabishvili (6 simultaneous cases), Mikheil Saakashvili (4 simultaneous cases), and Gigi Ugulava (5 simultaneous cases). These cases are used by the Prosecutor's Office to keep the persons of interest in pre-trial detention. In the case of Bacho Akhalaia, he spent close to two years in pre-trial detention. The charges and cases were structured in such a way that once the judge issued a verdict, new charges were instantly pressed and a new pre-detention sentence was issued.

Criminal charges recently brought against the leadership of the Ministry of Defense, and Irakli Alasania's statements that prosecution is being used for political purposes, have renewed concerns both domestically and internationally of political prosecutions. Alasania has openly blamed the Prosecutor's Office for using prosecution for political purposes.

4) Both the minister of interior as well as the prime minister have, on several occasions, stated that they plan to investigate the subversive acts of the United National Movement.

The investigation has been started under the article 315 (conspiracy to change the constitutional order). While these statements and the launch of investigation has upset many international interlocutors, the GD and Prosecutor's Office maintain that they do not intend to go after the UNM itself, but are simply investigating the concrete facts.

Other parties in the Georgian political landscape

Outside of the major political parties there are a few smaller parties. They do not affect the political landscape significantly at this stage, however they could play an important role in the new electoral cycle. The only exception is the party of the former Speaker of the Parliament Nino Burjanadze - Democratic Movement United Georgia - and the political bloc United Opposition, which scored between 10-12 % in the last elections. Burjanadze managed to garner 10.19% of the votes in the 2013 presidential campaign (third place), and the opposition led by her gathered 10.23% of the votes during the local elections in 2014. Her proposed mayoral candidate for Tbilisi gathered 12.82 % of votes. In 2014, Burjanadze created a coalition of smaller parties uniting them in the United Opposition bloc. Most notable of Burjanadze's partners are the Christian Democrats, who were the only opposition party in the UNM-dominated parliament in 2008-2012, but who were always accused of being UNM stooges.

Among other parties, one needs to mention the ultra-nationalist Patriots' Alliance, which gathered close to 5% in the previous local elections. Led by Irma Inashvili and supported by ultra-nationalist chauvinist media house Obieqtivi, the Patriots' Alliance advocates for pro-Georgian policies, and expresses clear antagonism towards national minorities, the political opposition, Western orientation of Georgia, Western culture, and pluralism in general.

Of the remaining political parties, the leftist Labor Party and the center right National Democratic Party of Georgia stand out, however they have not been serious actors in the last 10 years and have lost considerable support. These parties are also poor in financing and have neither new faces, nor ideas.

The last presidential and local elections created expectations among the public for a third political center. Alasania and the Free Democrats are now well positioned to try and occupy that niche, however the lack of financial resources and lack of clarity regarding their electoral basis could damage this move. The Free Democrats are very close to the UNM in terms of values, foreign policy goals, economic development, and relations with Russia. However, to be able to draw on the UNM electoral basis, Alasania will have to stop criticizing the UNM and acquire dramatically anti-GD rhetoric instead. This might not be entirely possible for a political party that was adamantly defending GD domestic and foreign policies just a week ago.

On the same hand, to be able to draw from the core electorate of the GD, it will have to stop criticizing the GD and engage in criticizing the UNM, while also creating a positive agenda. These are huge tasks as well, since positioning itself as an opposition party will require a lot more than simply criticizing another opposition party.

FD is likely to face three major challenges: 1) the lack of financial resources, 2) pressure from the government through the prosecution, and 3) its inability to deliver. As long as the FDs were within the coalition, they could have ascribed certain government successes to

themselves, such as progress in implementing the Association Agreement, progress in the implementation of the NATO Summit package, etc. From the standpoint as political opposition, it will be close to impossible for them to sell any policy as FD's success.

Finally there are some non-aligned groups that exist within civil society who could theoretically become united over a pro-Western platform. Among such groups, former Foreign Minister Gregory Vashadze's Society Iveria should be mentioned. While the group has no political agenda for now, it is not unthinkable that they will decide to play a more active role in politics in the run up to the 2016 parliamentary elections.

Possible scenarios

The best scenario for the country would be if the pro-Western modernist forces align themselves against the Georgian Dream and defeat them in the 2016 elections. However, at this stage this seems unlikely, as 1) UNM is unable to remove the shadow of the past and Saakashvili's negative legacy, 2) FD, Republicans, and UNM have so much bad blood between them that they are unlikely to align, and 3) no other modernist pro-Western political party with substantial support is ready to appear on the political arena.

In the absence of the aforesaid scenario, there are several likely developments. Recent events in relation to Alasania show that Ivanishvili and the GD hope that Alasania will take over the UNM's votes and will be a major, however weak, opposition in the next parliament. Alasania, in turn, plans to get as many votes as possible from the GD electoral base., He will need to become more critical of both the UNM and GD at the same time, which is a tight rope to walk.

Meanwhile, if GD plans to have a majority (or even constitutional majority) in the next parliamentary elections, they will have to align with other political forces, none of which are pro-Western. An alliance with Burjanadze's United Opposition and Inashvili's Patriots is a possibility, as Ivanishvili has often expressed his sympathies towards both of them. Ivanishvili even went as far as to say that Inashvili's Patriots would make a great opposition party.

In any case, it is evident that unless the consolidation of the pro-Western opposition forces occurs, the orientation of the country could be in jeopardy.

2. THE PARLIAMENT

This section will cover the work of the Parliament of Georgia. It will focus on the main role and functions of the legislative body, how it works, what are the roles of elected representatives, how they communicate with their constituencies, what is the degree of the efficiency and relevance of the Parliament.

Constitutional framework

The Parliament of Georgia consists of 150 members, 77 are elected through the proportional electoral system and 73 through the majoritarian single mandate system. Elections are held once in 4 years. The next elections are due in October 2016.

The Parliament of the 8th Convocation commenced working after the parliamentary elections of 2012, when there was the first peaceful transfer of power.¹ Before 2012, parliament was widely believed to be a rubber-stamp for the decisions adopted by the UNM government. After the 2012 elections it suddenly became an active decision-maker, a change foreseen in the new version of the Constitution, which was to enter force after the 2013 presidential elections.

Throughout 2013, parliament was an active political battleground as the Georgian Dream coalition shared power with former President Saakashvili during the period of cohabitation between the outgoing UNM and the GD. However, the system was still a presidential one. After the presidential elections of 2013, the constitutional framework changed, giving parliament even increased powers to form the executive branch and lowering the threshold to override the presidential veto. However, the Constitution that came into force after the inauguration of the president also complicated the procedure for revising the Constitution. Before these constitutional changes, two thirds of the votes in parliament were sufficient to achieve constitutional majority. Now, a draft law revising the Constitution can only be adopted if it is supported by at least three fourths of the total number of Members of Parliament at two successive sessions of the Parliament of Georgia, after an interval of at least three months.²

Composition of the parliament

As a result of the parliamentary election of 2012, the opposition coalition Georgian Dream won the majority of the seats in parliament. When the newly-elected parliament started working in October 2012, Georgian Dream possessed 85 seats and the United National Movement had 65.³ The composition of the majority and the minority has changed several times since 2012. In late 2012 to early 2013, 14 members of the UNM (mainly majoritarian MPs) quit the party, as a result of what was widely perceived a mixture of political, financial, and legal pressures from the GD. Six of these former UNM lawmakers formed a new independent faction of non-party candidates; seven preferred to continue their work in the

¹Georgia in Transition, Report of the human rights dimension: background, steps taken and remaining challenges, Assessment and recommendations by Thomas Hammarberg, September 2013, Page 27

² The Constitution of Georgia, Article 102, Part 3

³ Election Administration of Georgia, Results of Parliamentary Elections 2012

parliament as independent members not affiliated with any faction; and one joined the Georgian Dream coalition. Recently there are rumors that the six former UNM deputies who are currently not members of any political faction intend to form a new one. This faction is expected to join the majority, which needs an assertive number of MPs after the FDs left the coalition.

There are currently the following factions in parliament: 1) Georgian Dream – Democratic Georgia (46 members)⁴; 2) Republican party (9 members); 3) Conservatives (6 members); 4) National Forum (6 members); 5) Industrialists (6 members); 6) Free Democrats (10 members)⁵; United National Movement (39 members); National Movement – majoritarians (6 members); National Movement – regions (6 members); Non-Party Majoritarians (6 members). There are also another 10 MPs, who are not part of any faction. Three of these MPs used to be part of the Georgian Dream majority (Davitashvili, Gachechiladze, and Dumbadze), whereas 7 were part of the UNM but withdrew from the party after the elections. There is now the possibility that 6 of these 7 will create a new faction within the majority.⁶

Until November 2014, the Georgian Dream coalition held the majority with 83 MPs, and the UNM held the status of the minority with 51 MPs. After the withdrawal of the Free Democrats, there was a danger of GD losing the majority; however three FD members did not leave the GD majority, and the non-majority parliamentary faction of former UNM lawmakers made it clear that they would join the majority if need be. Therefore it is unlikely that the GD will lose the majority in the parliament. Even in the case of the withdrawal of Republicans (9 members) from the coalition, it is highly likely that a sufficient number of the 10 non-aligned MP and the faction of non-party majoritarians (6 members) will join the majority to keep the numbers safely above 76, which is a minimum for holding the majority in the parliament. Currently it is believed that the new majority will have 87 members.

None of the parties hold a constitutional majority in parliament, but Georgian Dream has sufficient members to adopt laws and override the presidential veto if they can mobilize all their MPs. This will now be more difficult with the Free Democrats out and the Republicans unhappy. However, GD can always count to bring on board independent and unaffiliated MPs, especially in a time of extreme need.

Parliament is still characterized by a winner-takes-all mentality, especially among the ruling party. Hardly any draft bills enjoy bipartisan support and in most cases legal initiatives are passed without taking into account amendments from the minority.

Important laws adopted by the Parliament of Georgia since 2012

⁴ Mr. Shavgulidze has possibly left the GD after the November coalition crisis and Mr. Popkhadze, Mr. Japaridze and Mr. Samkharauli joined the GD from the Free Democrats. Therefore, the number of the MPs in the Majority could increase to 48. It is also likely that non aligned members of the Parliament, who were initially part of the UNM will join the Georgian Dream.

⁵ Allegedly 3 members (Popkhadze, Japaridze and Samkharauli) have left the Free Democrats for GD after the coalition crisis and one MP (Shavgulidze) joined from GD.

⁶ David Bezhuashvili, former UNM MP, businessman and brother of Gela Bezhuashvili, Foreign Minister in 2005-2007, already declared he will not be joining any Parliamentary faction.

Since Georgian Dream came to power, a number of important laws such as the Labor Code, Law on General Courts, and the Code on Self Governance have been adopted. While parliament's role has significantly increased since 2012, the overwhelming feeling is that a lot of time is wasted on unnecessary and ineffective political debates. This also has a positive side, however, since for the first time in many years parliament is a place for discussion and debate. To elucidate the point on ineffective and unnecessary debates, one could look at the months-long discussions on the amendments to the Law on Occupation, on the draft law suspending foreclosures and amendments, to the Law on Administrative Violations banning the sale of sexual health products. In many cases, after months of heated discussions, the political debates suddenly stopped, the laws were not adopted, and decisions were not made.

Parliament has failed on several occasions to legislate on important constitutional matters. For example, since September 23, 2013, Vakhtang Gvaramia's term as a judge of the Constitutional Court of Georgia completed. Despite several statements by NGOs urging the parliament to elect a new candidate, the legislative branch did not even address the issue for over a year.

Parliament not only wastes time on unsuccessful debates, but also procrastinates entering into force important bills. For instance, the majority delayed the new rule regarding witness questioning (allowing the questioning of witnesses only in court), which was deemed as a significant improvement for the protection of human rights in criminal investigations. It also delayed the application of the jury trial system to the whole country and for all kinds of crimes. Just recently it attempted to extend the deadline by four months for adopting regulation to tackle security agencies' unrestricted direct access to telecom operators' servers. However, the president vetoed the bill and the parliament had to adopt the presidential offer to delay the regulation for only one month.

The parliamentary majority hardly cooperates with the Office of the President. The parliament rejected President Margvelashvili nominees for the vacant seats of the Supreme Court judges. Parliament later approved the same candidates for ten-year terms after the president re-nominated them. Early in 2014, it took the majority several weeks of consultations to arrange a date for the president's address to the Parliament of Georgia. Disagreement between the parliamentary majority and the president also became the center of attention when Margvelashvili was not invited to the parliament for the ratification of the EU Association Agreement. In November 2014, it took the Bureau of the Parliament some time to decide when the president could address the parliament about the political crisis following defense minister Alasania's dismissal.

The majority rejects the propositions not only from the United National Movement and the president, but also those from the Venice Commission. The recommendations of the Commission were not considered when the parliamentary majority decided to dismiss the current composition of the High Council of Justice⁷ and the Georgian Public Broadcaster's

⁷ Opinion on the Draft Amendments to the Organic Law of Courts of General Jurisdiction of Georgia Adopted by the Venice Commission at its 94th Plenary Session (Venice, 8-9 March) 11/03/2013

Board of Trustees.⁸ The parliament also failed to take the Venice Commission's recommendations into account when it adopted a bill setting a three-year trial period for newly recruited judges.⁹

Parliament constantly fails to make bipartisan decisions. One seat in the High Council of Justice remains vacant since the members of parliament cannot achieve a consensus on the candidate. The lack of cooperation from the parliamentary majority proves that the decision-making process is still driven by the majority's partisan interests.

Disagreement on security and defense issues

Members of parliament often do not manage to make bipartisan decisions on important security topics. Even though parliament adopted three different resolutions on the crisis in Ukraine, the majority did not support alternate versions proposed by the United National Movement. The opposition party stressed that the text of the resolution should condemn Russia's activities, mention the importance of de-occupation of Georgia and also sanctions on Russia. However, the Georgian Dream did not take any of the opposition's recommendations into account, rejected the United National Movement's alternative version, and adopted the text drafted by the Georgian Dream.

Parliament also failed to adopt a bipartisan document on Russia's treaty on "alliance and integration" with Sokhumi. In this particular case, Georgian Dream MPs disagreed not only on the text, but also on the format of the document. While UNM initiated the adoption of the resolution, the parliamentary majority adopted a statement condemning Russia's attempt to annex occupied Abkhazia.

The adoption of the 'Resolution on Basic Directions of Georgia's Foreign Policy' in 2013 was the only case when the parties in parliament made a joint decision on the matter of foreign policy and security. The adopted resolution represented a significantly revised and extended version of a draft proposed by Georgian Dream and the recommendations offered by the United National Movement. It should be noted that GRASS participated in drafting the texts for both the GD and the UNM, which significantly brought the provisions closer to each other and facilitated agreement.

Location of the parliament

The legislative branch does not have a consolidated agreement over the location of the parliament. According to the Constitution of Georgia, the Parliament of Georgia shall reside in the city of Kutaisi.¹⁰ The Georgian legislative body was relocated from Tbilisi to Kutaisi in

⁸ Amicus Curiae brief for the Constitutional Court of Georgia on individual application by public broadcasters, adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014)

⁹ Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate of Human Rights and the Rule of Law (DGI) of the Council of Europe, on the draft Law on Amendments to the Organic Law on General Courts of Georgia, Adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014)

¹⁰ Constitution of Georgia, Article 48¹

May 2012, in an effort to decentralize power. The cost of the construction of the new building amounted to 200 million USD.

GD as well as Bidzina Ivanishvili view this as a whim of ex-President Saakashvili, who is blamed for deciding on the issue of moving the parliament to Kutaisi unilaterally, and spending several hundred millions GEL for the new building without prior consultation or public debate. In December 2012, Georgian Dream initiated a constitutional amendment to fully relocate parliament from Kutaisi back to Tbilisi. It was never put to a vote as Georgian Dream failed to garner the 100 votes to endorse a constitutional change. According to the parliament's administration, about 22 million GEL was spent since the Georgian Dream came into power to fully renovate and reequip the former building of the parliament's administration in Tbilisi. Meanwhile, the minority party remained strongly in favor of Kutaisi as the location of the parliament. Even so, the Fall 2014 parliamentary session opened with a bureau meeting in Tbilisi, in the renovated parliament building on Rustaveli Avenue. Only committee meetings are held in the Tbilisi building, while plenary sessions continue to be held in Kutaisi. It is quite clear that the ruling party is trying to bypass the constitutional framework, in which the parliament needs 113 votes to change the location of the parliament determined by the constitution. The members of the United National Movement stress that this arrangement is unconstitutional. The same disagreement arose concerning the Presidential Palace where former president Mikheil Saakashvili resided. The impression is that Georgian Dream refuses to institutionally approve new buildings constructed while the United National Movement was in power. It seems to us that the Georgian Dream bestows exaggerated importance to the issue, spends excessive amounts of time and budget to fight the symbols remaining from their predecessor's time in power.

The role of elected representatives and their communication with their constituencies

According to the Constitution of Georgia, 73 Members of the Parliament are elected from their constituencies and represent the interests of the local population.¹¹ After the parliamentary elections of 2012, the Georgian Dream had 41 and the United National Movement 32 majoritarians in the legislative branch.¹² Later, as the composition of the parliament changed, United National Movement was left with only 18 elected representatives. Six representatives formed a faction of independent candidates and eight majoritarians became non-party independent candidates.

In order to organize the local representative's work and their communication with voters, the Bureau of the Member of Parliament is set up in their respective constituency on budget expenses. According to research by the NGO Transparency International Georgia, only 24 representatives have their offices set up. When TI Georgia attempted to communicate with the bureaus of the local representatives, only 41 of them responded to their questionnaire. According to their research, voters only actively address the local representative in the constituencies where the representative is elected from the ruling party.¹³ Some MPs state that they communicate with their voters by visiting their constituencies. However, it is obvious that local representatives hardly ever put local issues as a prescient matter at the

¹¹ Constitution of Georgia, Article 49, Part 1

¹² Election Administration of Georgia, Results of Parliamentary Elections 2012

¹³ Assessment of the first year of 8th Convocation Parliament of Georgia, Transparency International Georgia, Tbilisi, 2014

plenary sessions of parliament. The lack of effectiveness of the local representatives is proven by polls conducted by the National Democratic Institute, according to which only 31% of voters are acquainted with their representatives in parliament.¹⁴

Various non-governmental organizations and non-parliamentary opposition have stated that elected representatives do not work effectively in their constituencies. The electoral system of local representatives is also a subject of criticism.

In fact, the existing electoral system allows for the local representative to be elected even when he/she does not have approval of the majority of the voters. Furthermore, the current outlines of the boundaries of electoral constituencies do not guarantee proportional representation for the voters.

Other components precluding the effectiveness of the parliament

There is a widespread belief that the parliamentary majority strongly depends on the position of the Georgian Dream government and even more so on Bidzina Ivanishvili. Ivanishvili has constantly influenced (some say interfered) in the decision-making within the parliament. We believe that the capacity of the parliament to resist pressure from Mr. Ivanishvili is extremely limited.

Another major factor that may influence the parliament's abilities in the future is related to the instability of the coalition. As the Republicans feel more pressure after the departure of the Free Democrats, it is highly likely that in the case of major interference from Bidzina Ivanishvili, they could also leave the coalition, thus prompting a major constitutional crisis. The efficiency of the parliament will, in our prediction, decrease even further because of the coalition crises.

The minority party of the parliament frequently boycotts parliament as a form of protest against the actions of the government. Furthermore, the parliamentary minority often misses committee sessions. As a result, many partisan decisions are made without the participation of the opposition party. Such a form of protest decreases the effectiveness of the legislative body. The UNM usually uses the parliament to score political points and engage in debates with the majority, however in the majority of cases these debates are political and lack substance. GRASS believes that the introduction of a practice similar to the PMQs in the UK could dramatically increase the oversight function of the parliament over the government.

Not all members of parliament have permanent professional staffers who are competent and well trained.¹⁵ Usually staffers are selected based on their allegiance to the party during the pre-election campaign, which significantly decreases the oversight capacity of the parliament. In 2013, GRASS implemented a capacity-building project for parliamentary staff as well as staffers of the defense and security committees. Our observation was that the overwhelming majority of the staffers lacked basic skills and competence.

¹⁴ Public Attitudes in Georgia, Results of a August 2014 survey carried out for NDI by CRRC – Georgia, 2014

¹⁵ Assessment of the first year of 8th Convocation Parliament of Georgia, Transparency International Georgia, Tbilisi, 2014

Non-governmental organizations and journalists recently have had a hard time communicating with MPs since their phone numbers and emails are not publicly accessible. GRASS also experiences this: Our project FactCheck, which checks the factual accuracy of public statements made by politicians, constantly tries to communicate with MPs. Candidates have recently become less forthcoming, refusing interviews and comments on important subject matters.

3. THE GOVERNMENT

This section will cover the work of the government, how the ministries work, what is the power relation between them, what is the capacity of the government, how the budget is implemented, problems related to coordination and efficiency, as well as political orientation.

Ministries

The government of Georgia is composed of the prime minister and 19 ministers, three of which are State Ministers. The Ministers of Energy (Kakha Kaladze) and of Economy and Sustainable Development (Giorgi Kvirikashvili) are also the vice prime ministers. During Saakashvili's tenure, the posts of vice prime minister were allocated based on the importance of the portfolios and government priorities (state ministers on European and Euro-Atlantic integration and reintegration held the vice prime ministerial portfolios). Under the current government, the posts are obviously allocated based on the proximity of the persons to Mr. Ivanishvili. Former Minister of Defense Irakli Alasania shortly held the post of vice-prime minister; Mr. Ivanishvili stripped him of the post of during their disagreement over Alasania's potential presidential nomination in 2013.

After the parliamentary elections of 2012, the government abolished the Office of the State Minister of Employment, although further structural changes have not been carried through. The new government made amendments to the functions of the Ministry of Energy and the Ministry of Environment Protection, according to which the Ministry of Environment Protection would manage the usage of natural resources (except oil and natural gas) instead of the Ministry of Energy. The Office of the State Minister for Reintegration was renamed to the Office of the State Minister of Reconciliation and Civil Equality Issues. The amendments concerned the Ministry of Corrections, Probation, and Legal Assistance was renamed to the Ministry of Corrections and Probation.

Balance of political power in the Cabinet

Representatives of the following parties earned a place in the Cabinet of Ministers after the parliamentary elections of 2012: Republican Party: one minister - State Minister of Georgia for Reconciliation and Civic Equality Paata Zakareishvili; Free Democrats: four ministers - Minister of Defense Irakli Alasania, State Minister of Georgia on European and Euro-Atlantic Integration Alex Petriashvili, Minister of Justice Tea Tsulukiani, and former State Minister for Diaspora Issues Konstantine Surguladze; National Forum: one minister – former Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, Davit Darakhvelidze.

A majority of members of the government were, and still are, representing the Georgian Dream party. Various changes have been made throughout the last two years to the initial composition of the Cabinet of Ministers, although only the resignations of Konstantine Surguladze and Davit Darakhvelidze altered the party balance as FD and National Forum lost one candidate each. **However, these alterations did not affect the real balance of power within the cabinet, as these ministries do not hold real power.**

The Republican Party and the Free Democrats embodied the most pro-western factions of the government; they **were** represented with four ministers in the current government -- **until the most recent changes that took place on November 4 2014. After the cabinet changes, the Free Democrats lost all ministerial posts in the Cabinet.**

The post of Minister of Education is noteworthy as well. Giorgi Margvelashvili was succeeded by Tamar Sanikidze, his first deputy, when he became president. Before working in the Ministry of Education under Margvelashvili, she worked for the Georgian Institute of Public Affairs (GIPA) while Giorgi Margvelashvili was the rector there. Therefore, we can view Tamar Sanikidze as a person close to the president.

As for those ministers from the Georgian Dream party, they can be divided into several groups. One group can be called the Cartu Group ministers, as it includes the ministers whose activities were with the Cartu Bank, owned by Bidzina Ivanishvili. Prime Minister Irakli Garibashvili, Vice Prime Minister Giorgi Kvirikashvili, and Minister of Health Davit Sergeenko are among such ministers.

A second group includes members of the government who were members of Georgian Dream prior to the elections, and who actively participated in the pre-election process. Nodar Khaduri (Finance), Kakha Kaladze (Energy), Levan Kipiani (Sport and Youth), Sozar Subari (IDPs and refugees) are among such ministers. Maia Panjikidze **was a member of the same group, but was closely associated with Irakli Alasania, who is married to her sister. The latest political events in November 2014 show that she made her decision in favor of Alasania and not her formal party affiliation.**

The third group of ministers is fully dependent on PM Garibashvili, as they have been directly promoted or appointed by him, obviously in close consultation with Bidzina Ivanishvili. Such Ministers include Minister of Agriculture Otar Danelia, Minister of Corrections and Probation Giorgi Mghebrishvili, Minister of Internal Affairs Aleksandre Chikaidze, Minister of Culture Mikheil Giorgadze, Minister of Regional Development and Infrastructure Davit Shavliashvili, State Minister for Diaspora Issues Gela Dumbadze, and Minister of Environment Protection Elguja Khokrishvili.

Vice Prime Minister Kakha Kaladze is by far the most independent actor from Irakli Garibashvili, owing to his independent relations with Bidzina Ivanishvili. He holds the position of Secretary General of the Georgian Dream. There are rumors that Kaladze has an ongoing conflict with the prime minister, however the issue has not become public yet.

Relations between the president and the prime minister

During the last two years, relations between the prime minister and the president have been problematic. While Saakashvili was still in power there was the period of 'cohabitation,' which lead to artificial complications in the policy process due to both political parties wanting to score political points. After the presidential elections of 2013, however, the problem persisted.

The constitution is quite ambivalent about the formal separation of powers between the prime minister and the president. According to the constitution, the president has power over the foreign and defense policies; however, because the prime minister leads the

Cabinet, it is unclear where is the delineating line between these two figures and their powers.

The essence of the problem, however, is not so much the constitution but the attitude of former Prime Minister Bidzina Ivanishvili to President Giorgi Margvelashvili. Initially, in late 2012 to early 2013, Ivanishvili mentioned that senior lawmaker Vakhtang Khmaladze would be a good fit to become the next president. Some time during 2013, Ivanishvili chose Margvelashvili instead, who, unlike many politicians from the Georgian Dream coalition, was more independent minded and obviously intelligent (he is a former rector of GIPA, the Georgian Institute of Public Administration, and a philosopher by training).

Right after the elections, it turned out that Mr. Margvelashvili did not intend to become fully dependent on having Mr. Ivanishvili call the shots. The first official row between the two allegedly occurred over a bill passed by parliament about postponing the introduction of a law which would only allow in-court questioning of witnesses. The UNM was against postponing the law; the president's decision to veto the law was perceived as a blow against the Georgian Dream coalition. The second issue for which Margvelashvili came under criticism was when he moved his residence to the Presidential Palace, previously occupied by President Saakashvili. While Margvelashvili made the right step -- the premises of the State Chancellery are poor and not suitable for accommodating high-level guests -- he nonetheless upset his political partners, who turned the Presidential Palace into a symbol of the wrongdoings that Saakashvili planned and executed from within its walls.

Moreover, Margvelashvili supposedly contradicted Ivanishvili in a number of private interactions, also in matters concerning his private life (at the time, he was not married to his long-term girlfriend).. In March 2014, Ivanishvili publicly expressed his discontent with Margvelashvili during a TV interview, surprising the public. Since then, it became obvious that the president was being continuously obstructed by the government. Some of his formal responsibilities were taken away, such as the right to award medals and honors. Ivanishvili also criticized Margvelashvili for hiring the brother of a UNM lawmaker as his foreign policy aide; shortly after these comments, the president dismissed Mr. Machavariani from his administration.

The peak of the confrontation came in August and September 2014, when in an interview with the newspaper *Kviris Palitra*, ex-Prime Minister Ivanishvili slammed the president for being "competitive" with the government and "not understanding" that they are on the same team. Ivanishvili repeatedly referred to the president as "that person," which clearly showed his deep detest for him. On November 8, 2014, Ivanishvili slammed Margvelashvili once again, saying that he likes to travel and goes on official visits "only for the sake of visiting" and uses his veto power "only for the sake of vetoing."

The main problems between the PM and the president arose from their roles in foreign policy decision-making. Every major foreign policy event related to Georgia was accompanied by disagreement between the two men. In May 2014, the prime minister and the president failed to agree over who would sign the Association Agreement with the EU. While the president offered to grant the right to the PM to sign, the prime minister rejected the "granting," arguing that he did not need the president's authorization. Some observers claim that the step to "grant" the right to sign was a smart move from the president; such a

decree requires the “countersignature” of the PM, which would have meant the indirect acknowledgment of the president’s power and authority.

Serious problems between the two figures arose when it came to meeting foreign dignitaries in Georgia or going abroad for high level visits. Allegedly, the government attempted to prevent French President Hollande from visiting the Presidential Palace when he came to Tbilisi, but failed. Also, it is widely believed that the Prime Minister’s Office and the MFA attempted to derail the president’s visit to Poland, however the visit still went through.

The biggest confrontation came in September 2014, in relation to the president’s scheduled visit to the United Nations in New York. It appears that the PM and MFA torpedoed the president’s right to represent Georgia and address the UN General Assembly, putting the PM in his stead -- even though this meant that the PM would appear on the unpopular, last day of the GA week (usually presidents have a right to address the GA during the first three days, then followed by PMs and MFAs). Most surprisingly, the PM and the president took their battle to the TV screens, openly blaming each other. The president literally claimed that the Ministry of Foreign Affairs was responsible for the cancelation of his visit, whereas the MFA blamed the president’s advisor, Tengiz Pkhaladze, for not communicating to the president that it was unacceptable for Georgia to go to New York with two delegations. According to our information, initially there was an agreement that the president would attend the climate change summit, and the PM was to address the GA. However, after the PM’s Office realized that the climate change summit provided for a photo-op with President Obama, it was decided that the PM would attend that event too, leaving the president without a major event to attend.

Up until Ivanishvili kept his views on Margvelashvili private, members of the government and the prime minister personally refrained from publicly slamming the president. After the September 2014 interview, almost every single senior minister slammed Margvelashvili on the record, including the Minister of Justice, the State Minister for European and Euro-Atlantic integration, and the Minister of Foreign Affairs. The only minister who maintained a relatively reserved line was Defense Minister Alasania, who, during he height of the confrontation, stated that he maintained good working relations with the president on the issues of defense and security. The coordinated attack on Margvelashvili was certainly aimed to please Bidzina Ivanishvili.

Government reshuffles

A number of government reshuffles and changes took place throughout the last two years. The prime minister’s major consolidation of power is probably happening now, as he is ridding the cabinet of the popular pro-Western Defense Minister and his Free Democrat colleagues. This trend was set by Bidzina Ivanishvili in 2013, in an obvious attempt to curb Alasania’s popularity and ambitions.

In November 2014, the Office of the Prosecutor started an investigation into alleged corruption cases in the Ministry of Defense while Alasania was out of the country on an official visit to Germany and France. As expected, this campaign ended with the resignation of Irakli Alasania and his team (Petriashvili and Panjikidze) both from the governmental and coalitional positions (however, the parliamentary posts of vice speaker and head of the

committee on European integration have not been given up at the moment of this publication). The campaign concerning the Ministry of Defense has politics written over it -- not because corruption misconduct was impossible in the MoD, but rather because the Prosecutor's Office suspiciously initiated simultaneous investigations and arrests. We believe that there are therefore enough reasons to assume that the Office of the Prosecutor is being used as a political tool to tackle Ivanishvili's political opponents. The Prosecutor's Office has been used very effectively against the UNM. Now it turns out that coalition partners could be targeted too.

As Alasania's team left the government, the sharply pro-Western wing of the ruling power that was responsible for the country's foreign and security policies became significantly weaker. The former high-level officials from the Ministries of Defense and Foreign Affairs argue that the recent events put Georgia's European and Euro Atlantic future in jeopardy, to which GRASS fully agrees.

It is noteworthy that a former ally of Alasania, Minister of Justice Tea Tsulukiani, violated the principle of party loyalty and abstained from resigning. It is not a secret that Tsulukiani has bad relations with Bidzina Ivanishvili, the PM, and the Minister of Interior, therefore her decision to stay on in the coalition was quite controversial. However, it is also believed that the pressure on Tsulukiani was quite big from Ivanishvili and she, in the end, succumbed to it.

Overall, looming cabinet changes put the unity of the fragmented and fragile coalition under threat. Notwithstanding the statements of coalition leaders that the coalition will last at least until the 2016 elections, the fracture of the coalition is still highly possible. This could happen through a likely scenario of the **Republican Party deciding to leave the coalition, or another major political crisis happening within the Georgian Dream.**

The next stage of power consolidation by the PM may feature getting rid of the Republican Party. However, it should be noted that because the Republicans do not hold important ministerial portfolios, their presence in the coalition is more tolerable for the GD.

Cabinet changes occurred several times in the last two years. In 2013, the Minister of Agriculture Mr. Kirvalidze left his post because of the "Tractors Case," and did not return to his office despite that the investigation on the case was suspended. While the details of the politics behind the case are unclear, it is widely believed that internal politics among several factions that were influential at that time (among them the ex Deputy Chief Prosecutor and then ex Deputy Minister of Interior) triggered the case against Mr. Kirvalidze.

The Minister of Internal Affairs and Minister of Education were changed in 2013 as a result of Garibashvili becoming the prime minister and Margvelashvili winning the presidential elections. PM Irakli Garibashvili carried out the first wide-scale cabinet changes in July 2014 and it led to the replacement of seven ministers. The official reason for the changes was to update, activate, and increase the efficiency of the cabinet, however these changes were superficial and hardly brought about any real change in the cabinet.

One more reason for the cabinet changes could be the open criticism expressed by former PM Bidzina Ivanishvili concerning high bonuses awarded in the Corrections Department.

Almost each member of the government agreed with Ivanishvili's criticism. **It is usual practice that once Bidzina Ivanishvili speaks openly on an issue, ministers race to agree with him, even if this includes acknowledging the criticism.**

Problems with efficiency, coordination, competence, and strategic vision

The government showed signs of problems concerning coordination, competency, consistency, and efficiency. In addition, the absence of a strategic vision in the executive is quite evident in a number of fields.

The strong influence of former Prime Minister Bidzina Ivanishvili on the government is a serious problem for the development of the democratic process. Signs of informal governance are omnipresent. Ivanishvili grossly interferes in the affairs of the president, the prime minister and the government, the Office of the Prosecutor, the Chairman of the Parliament (who signed a paid article-advert in the International New York Times following Ivanishvili's instructions, and got into a scandal as a result), and influences the decision-making process. Bidzina Ivanishvili often determines the main vectors of political discourse: For instance, the campaign against "the disobedient ones" (President Margvelashvili and Minister of Defense Alasania), political revenge, and the marginalization of the parliamentary opposition, resulting in deepening political polarization.

Bidzina Ivanishvili dispelled all doubts about his interference in political affairs by attending the Georgian Dream's political council held before the Free Democrats' departure from the coalition. As the representatives of the government say, Ivanishvili's status is "public leader" of the Georgian Dream.

The decision-making procedure directly concerns the **efficiency** of the government. The UNM government was fairly criticized for its authoritarian style of decision-making. A small, informal, yet collective body (Mikheil Saakashvili, Minister of Justice Zurab Adeishvili, Minister of Interior Vano Merabishvili, National Security Adviser Giga Bokeria, and Tbilisi Mayor Gigi Ugulava) was believed to make decisions regarding the most important issues for the country. While the groupthink was probably present in that circle, still, decisions were made together and responsibility was always shared. In the current system, there is a clear diffusion of responsibility as the majority of the important political decisions are made by Bidzina Ivanishvili and channeled through the prime minister.

Making important decisions in the framework of the Ivanishvili-Garibashvili format seriously affects the democratic legitimacy of the government and the whole governance system. Apart from the negativity of having an informal influence on the executive, the deficit of timely and efficient decisions becomes even more acute because of the difficulties in communicating with the former prime minister. Various ministers are interested in having a direct connection with Bidzina Ivanishvili and getting approval from him on different issues, but it is generally very rare, if not impossible.

Another problem is that the Office of the Prime Minister lacks capacity. The PM does not have any advisory body or strong team of advisers. Formally, the prime minister had only one advisor -- Guram Odisharia -- who came to position after the July cabinet change. Only recently Irakli Garibashvili appointed Sopo Japaridze as an advisor for Human Rights and Gender Equality Issues, after several months. Bidzina Ivanishvili remains the main "advisor"

of the prime minister. It is particularly worrisome that the prime minister has no serious advisor on foreign, security, and defense policies. This becomes especially problematic now after the Free Democrats left the coalition.

Our assessment is that the government lacks a long-term **strategic vision on policy issues** and only operates by responding to short-term challenges. This became clear after the failure of the “reset” of relations between Georgia and Russia. The new policy – arranged that Georgia should not be the cause of disagreement between the U.S. and Russia -- resulted in the inevitable threat of annexation of the occupied territories because it lacked strategic vision on how to react to such threats. The government still does not have any alternative strategies to face these challenges.

The problem is more complicated in terms of **competence and professionalism**, especially when it comes to the process of dismissals of the “old staff” in public institutions. From October 2012 to August 2013, 5,149 persons were dismissed from public institutions in Georgia (from ministries, their subordinate LEPL’s, the local administrations and councils of the municipalities), 2,330 of them (45%) on their own will. In most of the cases, the public officers were not actually willing to leave office but were forced to.

The most public officers have been released from these Ministries: Ministry of Internal Affairs (897), Ministry of Labor, Health, and Social Affairs (883), and the Ministry of Defense (690). At the same time, the cabinet changes have not concerned the Ministry of Energy and the Offices of the State Ministers for Diaspora Issues, Reconciliation and Civil Equality Issues, and European and Euro-Atlantic Integration. Overall, only 257 (4%) of 6,557 new employees were appointed according to competition rules.

Moreover, the employees of Tbilisi City Hall have mentioned several times that there are cases of political pressure and employees being forced to write statements of voluntary dismissal -- since the 2014 local self-government elections. The process of dismissing the “old staff” from public institutions is still ongoing (Source: Survey by Transparency International Georgia).

Diversity and fragmentation is the reason for yet another problem of the coalition -- **uncoordinated work**. This circumstance per se negatively alters the initiatives of the middle layer by limiting it and creates deficit between the lower layers of the ministries and institutions (departments, directories).

The new visa regulations that came into force on September 1 2014 represent a perfect example of uncoordinated policy in public institutions. At least three institutions -- Ministry of Justice, Ministry of Foreign Affairs, and Ministry of Internal Affairs -- worked out the regulations. The PM apologized to the foreign citizens who experienced problems because of the new rules. The government amended the regulations based on the activities and recommendations made by civil society and diplomatic corps.

The uncoordinated policy problem is especially obvious when it comes to the foreign and security policy. Voicing different and sometimes conflicting messages -- from the PM, the Ministers of Defense, European integration and Foreign Affairs, the Chairman of the Parliament, and the president -- in front of either the domestic or international community harms national interests. The statement made by the PM on the BBC that the ongoing events

in Abkhazia (replacing Ankvab government with a more pro-Russian opposition) were ordinary staff changes is an example of this. Also according to PM Garibashvili, the annexation of Crimea did not have anything in common with the occupation of Abkhazia and South Ossetia. Meanwhile the president and other government representatives had different positions regarding this issue.

The reactions and statements of various institutions of the government concerning the information published in *Foreign Policy* magazine about the training of Syrian rebels in Georgia (offering a **training base** to the U.S. in this occasion) was uncoordinated as well. The State Security and Crisis Management Council categorically denied it as a possibility, while the Ambassador of Georgia to the United States approved the information (later he denied it and blamed the misinterpretation of his statement on the incompetency of the journalist). At the same time, the Ministry of Defense made a statement that Georgia is considering ways to contribute to the goals of the anti-ISIS coalition. The statement of the Ministry of Defense does not categorically rule out the possibility reported by *Foreign Policy*. The result is that the idea of hosting a training base (regardless of whether it was actually offered and the reasonability for Georgian security interests) has failed and the danger has increased. It is difficult to say, how prepared the country's security system is to maximally persecute the threat of terrorism in the country.

The PM is pushing to increase the role of the State Security and Crisis Management Council (which he created) in forming governmental policy in the spheres of security and foreign affairs. Thus far, the Council has only appeared as a body contending with the Security Council, the president's consultative body (which has only operated on a low, operational level and ensuring the coordinated action of institutions in the situations of natural disasters).

The problem became evident during the discussions about the Russia-Abkhazia Agreement on Alliance and Integration. The State Security and Crisis Management Council convened to discuss it; it is still unknown what gradual steps, if any, the government is planning to take in response. The president's Security Council held a meeting to discuss the Russia-Abkhazia treaty as well. It was the first time PM Garibashvili attended a Security Council meeting – chaired by Margvelashvili. Although, the PM's decision to attend only became known a day before the meeting. Considering the strained relations between the president and the PM, the meeting with their bilateral participation should be viewed in a positive light. From another side, the main outcome of the Council meeting was the fact of the PM attended it, and not any actual decisions addressing the challenges the country is facing. It can be surmised that discussing the pending Russian aggression threat in two different council formats is mostly due to the political rivalry, not the political desire to closely coordinate. As a result, the government still lacks a developed strategy or action plan.

Initially, the new government declared **transparency** as their ruling principle. There are signs that in practice it is otherwise. For instance, according to a survey by the Institute for Development of Freedom of Information (IDFI), the information availability rate for the LEPLs and institutions changed from October 2013 to July 2014: The rate of full responses shrank by 27%, while unanswered queries increased by 26%. The Minister of Internal Affairs' denial, on several occasions, to attend minority meetings is another example of decreased transparency of the Government. .

Budget execution

The main problem with Georgia's budget execution is the management of the budgetary process. Throughout the last two years, the government has been planning more budgetary expenditures than it can spend. Mobilizing revenues was another problem in 2013; the tax revenue plan was executed by 91%. Nothing has changed in the methodology of planning the budgetary revenues, as the staff of the Ministry of Finance is the same as two years ago and it still uses the same methodology. Therefore, the problem is not in the methodology, since the budget planned using the same methodology was being executed with surplus up until 2013.

The problem is the absence of a result-oriented fiscal policy. No cost-benefit analysis is being done. The organizations financed from the budget request more money than they can actually spend. None of the annual expenditure plans of any ministry is being completed by 100%. Last year, nearly 500 million GEL less was spent than the planned amount, and this year it will also be approximately 500 million GEL. Based on data for the first nine months of 2014, the budget line of receipts is completed by 99.5% and the tax line - by 91.6%. Against this background, the government states that all projects and reforms are going according to plan and there is no collapse. It is unclear, then, why they demanded (and still demand) such big amounts of money. A high-deficit budget is being planned (3% of the GDP), borrowing public debt is in the agenda as well, and it harms the macroeconomic stability of the country. In fact, there was no need to plan such a deficit – and therefore, no need to borrow so much money.

The biggest problem is in the infrastructure projects -- only 60-70% of projects are being completed. As a result, large volumes of foreign grants and preferential credits, which are vitally important for Georgia's socio-economic development, remain unused.

In fact, the budgetary process is chaotic. The 2015 budget already passed the first stage of agreement with the government, but then all the ministries requested additional funding afterwards. It is unclear why was the budget sent to the parliament if the government (members of the Cabinet) did not agree with it. The management problem in the budgetary process is obvious in the quarterly distribution of the budget expenditures. There were no shortfalls in the first three quarters of 2013; therefore, the full burden of deficit fell on the fourth quarter. It was followed by putting vast amounts of GEL into circulation, increasing prices, and then there was devaluation of the GEL. The same trend goes on in 2014 - the government either will not execute the expenditures line of the budget or will spend 25% of the planned budget (more than 2 billion GEL) in the remaining two months and put macroeconomic stability in jeopardy.

In general, there is a noticeable change in the government's recent budget policy. The government tries to interfere in the economy as much as possible. It prioritizes state enterprises and broadens subsidies, government credits, education, and healthcare. At the same time, the private sector remains underdeveloped. The focus is on policies oriented on social issues instead of on fiscal policy that would enhance economic growth.

Corruption - state of affairs

Georgia is ranked 55th among 177 countries in the Corruption Perceptions Index (CPI) for 2013, calculated by Transparency International. According to the CPI, Georgia has 49 points on the scale from 0 (highly corrupt) to 100 (very clean). In 2012, Georgia had 52 points and held 51st position among 176 nations. The CPI for Georgia increased slightly from 2012 to 2013.

The reforms carried out by the UNM government radically eradicated petty corruption and red tape. The current government made certain steps in this direction as well. According to Transparency International Georgia, the Georgian Dream government actively initiated anti-corruption reforms in certain spheres: 1) they expanded the range of public officers who must present propriety declarations, and 2) by publishing directly (without tender) signed public contracts (including all minor purchases) on the State Procurement Agency's webpage,

It may be premature and exaggerated to talk about a corruption problem, but it is possible to review the factors that could contribute to the reemergence of corruption as a significant impeding factor to the country's development.

First, high-level government officials are expected to unequivocally and repeatedly condemn nepotism and other types of corruption. As opposed to this, certain high-level officials made ambiguous statements regarding cases of nepotism during recruitment processes. As prime minister, Bidzina Ivanishvili did not set the right tone on this issue either, when in 2013, responded to a journalist's question about the criteria of hiring in the public sector, he said that "it is mainly about acquaintances," and even argued that there was nothing wrong with hiring a relative.

According to the survey by Transparency International Georgia, as of August 2013, only 257 (4%) of 6,557 new employees were appointed according to competition rules after the change of the government in 2012. The Georgian Dream representatives in Adjara's government and Supreme Council were openly blaming each other of nepotism. Such vague recruitment rules in public offices, the ambiguous attitude towards it, and bilateral accusations from different factions of the government create a favorable environment for corruption.

Another factor of great importance is the trend of declining public trust in the Ministry of Internal Affairs, as shown by recent polls. This declining trust is facilitated by a lack of clarity about the crime rate statistics provided by the MIA. In addition, the government's criticism of the previous government serves as a reason for the lack of trust in public institutions, eventually shrinking the level of new initiatives and increasing bureaucracy.

4. THE JUDICIARY

This section describes the role of the judiciary, its recent reforms, as well as political interferences in the judicial process.

Reforms in the judiciary system

According to the Constitution of Georgia, the judiciary is independent and free from political influence.¹⁶ However, for years the Georgian judicial system was subject to criticism for not respecting this crucial principle. Before 2012, criticism of the judicial system was that the Prosecutor's Office often received the verdicts and punishment it wanted and that the judiciary was politically controlled by the UNM government. After the parliamentary elections of 2012, certain reforms were carried out in the judicial system that made the judiciary substantially more independent than before. However, allegations of political interference still exist, and evidence shows that in the cases where the political interests of the ruling party are at stake, the judiciary plays according to the government's game.

The first significant improvement after 2012 was the change in the system for appointing the members of the High Council of Justice. In accordance with the new law, the authority to elect the new members of the High Council of Justice is distributed among the judicial, legislative, and executive branches. Even though these changes were considered as an improvement to the judicial system as a whole, civil society groups, political parties, and the Venice Commission urged the parliament not to terminate the authority of the existing members of the High Council of Justice. The Venice Commission also asked the parliament to involve the parliamentarian minority in the process of appointing the members.¹⁷ However, parliament did not take the Venice Commission's recommendations into account, terminated the authority of the existing members of High Council of Justice, and did not guarantee the involvement of the United National Movement in the process. The Parliamentary Assembly of the Council of Europe (PACE) resolution about the functioning of democratic institutions in Georgia also suggested a system to facilitate and encourage agreement between the ruling majority and the opposition in electing the parliament's appointees.¹⁸ However, these recommendations as well were not taken in account, and one seat still remains vacant in the High Council of Justice.

Alongside the reform of High Council of Justice, the first round of judicial reforms made court sessions more open and transparent to journalists and civil society. Furthermore, the changes ended the mandatory practice of cumulative sentencing, which deprived judges of flexibility when applying sanctions.

Another major change was a proposal in the Constitution of Georgia, that came into force on November 17 2013, after the inauguration of the new president. The new version of the Constitution determines that judges are appointed for lifelong terms. However it also suggests that before being awarded life-long tenure, judges be

¹⁶ Constitution of Georgia, Article 82, Part 3

¹⁷ Opinion on the Draft Amendments to the Organic Law of Courts of General Jurisdiction of Georgia Adopted by the Venice Commission at its 94th Plenary Session (Venice, 8-9 March) 11/03/2013

¹⁸ The functioning of Democratic Institutions in Georgia, Resolution 2015 (2014)¹, Council of Europe Parliamentary Assembly

appointed for an initial trial period that cannot exceed three years.¹⁹ Parliament adopted the bill, setting a three-year trial period for newly recruited judges. The Venice Commission and PACE resolution both recommended lowering the three-year probation period, at the very least, in order to bring it in line with European standards, but the laws remain unchanged.

The parliament also failed to fully implement the provisions in the Code of Criminal Procedures on new rules for witness testimonies and jury trials. The parliamentary majority stated that Georgia does not have enough trained judges and the budget to implement these changes. It must be mentioned that the government had two years to prepare the judicial system for the changes that were envisaged by this law. The fact that the government was inactive and did not take steps to implement the new rules on witness testimony and the jury trial system proves that the parliamentary majority never planned to enforce these provisions.

Independence of the judiciary

Statistics prove that the judicial system is more independent and free from political influence since the parliamentary elections of 2012. According to the data obtained from the Supreme Court of Georgia, in 2013, 61% of the administrative complaints were decided in favor of individuals and legal entities, compared with 45% in 2012.²⁰ The percentage of acquittals in criminal cases have also increased by 7%, compared with the average percentage of the previous nine years.²¹ According to Transparency International Georgia, endorsements of defendant's petitions have increased in the courts.²² Furthermore, the use of pretrial detention declined in 2013 by 18 percent, compared with 2012.²³

It is obvious that the Georgian judiciary system is adapting itself to the new environment and enjoys more independence than before 2012. **However, courts are still pressured by government officials, members of the opposition party, and society in general.** When the court, at first, acquitted former Defense Minister Bachana Akhalaia, current government officials stated that the courts are still under the influence of the United National Movement. Minister of Justice Tea Tsulukiani voiced her opinions about the Chairman of the Supreme Court, Kote Kublashvili, and openly said that she cannot wait for the year 2015, when Mr. Kublashvili finishes his term. Minister of Justice Tsulukiani has also stated several times that the judges of the criminal court lack competence. When former government officials were given guilty verdicts in court, the members of the opposition party criticized the judgment and competence of the judges.

The district court of Akhaltsikhe became a target of protestors' aggression when a judge made an unpopular decision. Protestors threw stones and eggs at the court building and one

¹⁹ Constitution of Georgia, Article 86, Part 2

²⁰<http://factcheck.ge/en/article/ninety-nine-percent-of-lawsuits-between-business-and-the-state-were-decided-in-favour-of-the-state-over-the-last-year-however-70-of-such-disputes-were-resolved-in-favour-of-business-furthermore/>

²¹<http://factcheck.ge/en/article/we-remember-when-the-not-guilty-verdicts-amounted-to-0-1-the-number-of-not-guilty-verdicts-has-significantly-increased/>

²² Judiciary after the Parliamentary Elections of 2012, Transparency International Georgia, 25 July 2013

²³ Georgia 2013 Human Rights Report, US Department of State, 2013

of the court's employees was seriously injured. The Constitutional Court of Georgia has also experienced such pressure by Georgian Dream activists when they were deliberating the case of former Tbilisi Mayor Giorgi Ugulava. Aggressive attacks on the court threaten the independence of the judiciary, since it may influence judgments made and encourage judges only to make popular decisions.

A few months after the newly elected government came into power, Chairman of the Supreme Court Kote Kublashvili made a statement alleging that security officials were interfering in the work of Tbilisi City Court. He said that the judge's assistant was pressured to collect internal information about the structure of the court and about the judges' personal preferences. For almost two years now this case is still under investigation.

Yes; the judicial body experienced progressive improvements after 2012; however, government officials, political parties, and society need to refrain from statements that potentially pressure judges. It seems to us that the executive and legislative branches interfere in the development of judicial independence.

Criminal cases of former government officials

After the parliamentary elections of 2012, former Prime Minister Ivane Merabishvili, former Defense Minister Bachana Akhalaia, and former Tbilisi Mayor Giorgi Ugulava were all brought to trial for various criminal offences. Other high-level officials were tried as well, however a number of them won their court cases (for instance, former Minister of Education Nika Gvaramia and former Minister of Energy Alexander Khetaguri).

The wife of former Defense Minister Bachana Akhalaia reported that judges were pressured by government officials to make favorable decisions. The location of the trial of opposition party leader Ivane Merabishvili was moved from Tbilisi to western Georgia, Kutaisi. His fellow opposition members claim that the relocation was conditioned by the fact that the government could easily get control over the specific judge in Kutaisi.

In the case of former Tbilisi Mayor Giorgi Ugulava, the judge was involved in alleged serious judicial misconduct. The Tbilisi City Court judge deliberated the matter of terminating Ugulava's mayoral term behind closed doors, after midnight. Later, the Constitutional Court of Georgia declared that the legal rule -- allowing the judge to terminate the elected candidate's authority without oral hearings -- to be unconstitutional.²⁴

Generally, the judicial system is not the focus of the criticism when it comes to the criminal cases against former government officials. Mostly, the Prosecutor's Office is accused of allegedly practicing selective justice. It is noteworthy that the government often responds to the allegations of selective justice by referring critics to monitor the cases. This tactic only aims at masking the real origin of the selective of justice, which starts at the Prosecutor's Office.

²⁴Citizen of Georgia Giorgi Ugulava v. Parliament of Georgia, Decision of the Constitutional Court of Georgia №3/1/574

5. THE ELECTORAL SYSTEM AND THE SYSTEM OF SELF-GOVERNANCE

This section discusses the electoral system in Georgia, how it affects the political set up and status quo, the division of powers between national and local authorities, the state of decentralization in the country, the self-governance system, and current debates about the future electoral and self-governance systems.

The current system and the necessity of reforms

According to opposition political parties and NGOs working in the field, the existing election system (of local self-government and parliamentary elections) does not provide for fairness of elections and does not translate voters' wills in mandates in a proportionate manner.

The mixed election system is used to elect members of parliament. The parliament of Georgia is composed of 150 members; 77 of them elected by proportionate and 73 by majoritarian way. They are elected for a four-year term based on universal, equal, and direct voting rights.

Mandates received after the elections by proportionate rule are allocated only between those political unions and election blocs that received at least 5% of electoral votes. Alternatively, with majoritarian rule, the candidate that receives the most votes -- but not less than 30% of the electorate in the particular constituency -- is elected. It is noteworthy that the 30% threshold is low and does not provide for high legitimacy of the elected candidates. A candidate that receives more than 30% of electoral vote can theoretically be recognized as winner; but the sum of the votes against him or her can be considerably higher than the votes he or she received. Moreover, there is an ongoing debate on reducing the proportionate system threshold from 5% to 4%.

Throughout the years there have been multiple recommendations from international and local organizations on how to eradicate the flaws in the electoral system. Most of the recommendations have not been met or have not been duly fulfilled. Intensive work reforming the electoral system has not been initiated yet.

Inconsistency between single-mandate constituencies is one of the main flaws of the current election system, in both parliamentary and local self-government elections. There is a significant disproportion between the registered number of voters and the received parliamentary (and city assembly) mandates. According to the recommendations of the Venice Commission, the difference between the voters of the different constituencies should be within 10%, or 15% in some extraordinary cases, but the recommendation is neglected. Often, the difference is more than 100%. For instance, 163,654 voters are registered in Kutaisi, while there are only 5,779 in Kazbegi, and both constituencies are represented with one mandate; that is a clear demonstration of the **inequality of votes**.

These facts are at odds with the guidelines for good electoral practice of both the Venice Commission and the OSCE Copenhagen document. The Venice Commission notes in its recommendations that choosing an electoral system is the state's sovereign decision, but

adds that providing relative similarity in size between different constituencies, that would guarantee the equality of votes within the mixed electoral system, is yet to be realized in Georgia. The Commission also adds that if providing relative similarity of the number of voters in the single-mandate constituencies is impossible, then the election system itself should be revised.

In January 2012, two co-rapporteurs presenting a report to the PACE Monitoring Committee once again called on Georgia to introduce a **regional proportional system**, which would create a more competitive election environment.

The regional proportional system is considered to be the main alternative to the existing election system. This system would allow densely populated constituencies to elect more deputies, while the number of constituencies would be reduced. Small constituencies that are close to each other geographically and historically would be merged. The number of deputies representing a particular constituency would depend on the number of voters in that constituency. The seats won by parties in parliament would depend on the percentage of votes they get in their respective constituencies based on the regional- proportionate system.

As for the Georgian political spectrum, since 2010, the common position of eight oppositional parties was to elect 75 out of 150 MPs with the proportionate election system, and the rest by the regional-proportionate system, as opposed to the current single-mandate vote. Therefore, it meant abolishing majoritarian system and replacing it with a regional proportional vote. This system was rejected by the then ruling UNM. They said the main flaw of the proposed system was that small constituencies would have lower chances of have representatives in the parliament.

Currently, the inter-party group working on electoral issues, consisting of 16 opposition parties, named the main gaps to be filled in order to create a democratic electoral environment:

- Change the electoral system;
- Improve the quality of the staff of the electoral administrations;
- Establish new rules for the pre-election campaign period: a) usage of administrative resources; b) free airtime; c) party funding.

The request of the non-parliamentary opposition concerning the electoral system is to abolish the majoritarian system. According to the inter-party group, the number of party representatives should correspond to the percentage of votes received by the party in the election. Under the current state of affairs, the inter-party group requests that parliamentary elections be held only with the proportionate rule. The argument for neglecting the introduction of the regional-proportional system is that if the new system is established, then the 5% threshold established by the proportional rule would even further increase in regional constituencies, thus decreasing the chances of oppositional parties winning seats in parliament.

The current threshold of 5% of the votes in the proportional system guarantees a party at least several parliamentary mandates, while the probability of small parties winning seats is reduced in the framework of the regional-proportional system, as each region is assigned an

individual mandate. In two-mandate constituencies, the natural threshold will be 33.3%, in three-mandate constituencies - 25%, in four-mandate - 20%, in five-mandate - 16.7% etc. The 5% threshold will only be reduced if a constituency is assigned 20 or more mandates that is practically excluded because of the estimated number of MPs and regional constituencies.

The non-parliamentary opposition wants the reform of the election system to be finished one year before the approaching 2016 parliamentary elections. Holding the parliamentary elections in a fully proportionate system is their primary request at this stage. Based on the information received from members of the inter-party group, this is a sort of political tactic and the group reviews the mix of the proportional and regional proportional systems as a "plan B." In this case, the group will push for the proportionate system as the main mechanism of winning seats. Electing 100 MPs with the proportional system and 50 with the regional proportional system is being considered. If this works, then the regional proportional vote will replace the majoritarian system of elections. This option is favorable for the opposition parties compared to the existing mixed system, as a 30% threshold is fixed for winning a majoritarian mandate. If the amendments are made, the threshold will be reduced.

Based on the information available to us, the UNM will accept the transition to the regional-proportional system, although the UNM does not publicly announce its position. The UNM is avoiding criticism concerning their failure to fundamentally change the electoral system during their rule. The parliamentary opposition is waiting for the given subject to be raised and become the most discussed issue in parliament.

The parliamentary majority recognizes the need for change in the electoral system, although they have not specified what kind of amendments there might be, and when. The representative of the Georgian Dream coalition, Zakaria Kutsnashvili, commented to media on the topic: "What kind of amendments will be made depends on the constitutional reform. The electoral system is determined by the constitution and it is impossible to reform the electoral system without amending the constitution." Such a public reference to the fact that amending the electoral system requires amending the constitution indicates that the ruling coalition does not want to make this issue a matter of active debates. The long use of the existing electoral system, the tolerant position of different governments to it, and the constant criticism of the system from the opposition, reveal that the existing electoral system serves in favor of whatever is the ruling parties throughout the years. The members of the ruling coalition are well aware of this, as the majority them have a long experience being in the opposition.

Bidzina Ivanishvili is waiting for relations between the parties of the coalition to be sorted out before changes to the electoral system can be initiated. At this point, the political crisis has relatively calmed down, as the Free Democrats left the coalition, while the Republican Party decided to stay. Nevertheless, these two parties will reportedly support the introduction of a regional proportional system, as they will have more chances of winning parliamentary mandates in case they are not in the coalition. In addition, there is a probability of certain local organizations and a faction of the coalition parties to be against the regional proportional system. If the government decides to reject the regional proportional electoral system, it will try to vote down the consensus of the inter-party

group and delay the working process on the electoral system until the parliamentary elections of 2016.

Local self-government system

On June 15, 2014, local self-government elections took place. The parliament adopted a new Law on Local Self-Government Code on February 5, 2014. Important changes were made regarding the involvement of the electorate. Unlike in previous elections, *gamgebelis* and mayors were to be elected directly (previously the mayor of Tbilisi was the only elected mayor).

According to the Local Self-Government Code, the assembly of the municipality is elected for a four-year term based on direct, universal, equal, and covert voting by the citizens registered in the respective municipalities.²⁵ Gamgebelis and mayors are elected for a four-year term with direct, universal, equal, and covert voting.²⁶ Therefore, as opposed to previous years, this year all municipalities (self-governing cities and self-governing communities) **directly elected their gamgebelis/mayors**. This is a step forward. It should be noted that EU countries do not have a common practice for electing mayors on the local level. Mayors are directly elected in 11 countries of the EU. In three countries, mayors are either elected by direct rule or appointed by the assembly or central government (depends on the region). There is no practice of direct mayoral elections in 14 countries of the EU.²⁷

The new code added seven new self-governing cities (Telavi, Ozurgeti, Zugdidi, Gori, Ambrolauri, Mtskheta, Akhaltsikhe) to the existing five (Tbilisi, Rustavi, Kutaisi, Poti, Batumi) increasing their number to 12. City Assemblies used to elect mayors in all self-governing cities, except Tbilisi. Even though the electorate elected the assembly, the legitimacy of mayors was often questioned. Kutaisi is an example: it went through seven mayoral substitutions from 2013 until the local self-government elections of 2014. Therefore, electing mayors/gamgebelis directly is an **important step towards decentralization**.

It is noteworthy that a 50% threshold was introduced in the elections as a result of a government concession. This resulted in some races have a second round of elections -- for the first time in Georgia. That should also be considered a step forward.

Despite the fact that mayors/gamgebelis are elected directly, the code envisages the option of **expressing distrust** in a mayor/gamgebeli. The entry can obviously be used for political motives, and thus it contains certain threats. Interestingly, the code does not list any causes that can become **reason for expressing distrust** (for example: flagrant violation of law, committing a crime, etc.). It means that the existing mechanism (the entry) can become a political weapon in the hands of the government. Precisely, the city assembly can initiate

²⁵Local Self-Government , Article 23

²⁶Local Self-Government Code, Article 46

²⁷<http://factcheck.ge/en/article/for-the-first-time-12-city-mayors-and-up-to-60-gamgebelis-will-be-directly-elected-by-the-georgian-population-this-is-a-step-forward-which-has-not-yet-been-achieved-by-approximately-15-17-e/>

the 'distrust process' if there is a party confrontation between the majority of the city assembly and the mayor/gamgebeli.

As mentioned above, currently there are 12 self-governing cities in Georgia, according to the new law. Yet, there is no criteria for legally determining the status of a self-governing city, and this is incorrect. Instead of centrally assigning the status, it would be better if certain **criteria** existed for assigning the status of 'self-governing' to a city, such as population, urban attraction, and development potential.

An important part of decentralization is the **distribution of authorities between central and local governments**. A municipality has two types of authorities: proper, and delegated. As opposed to the last law, the new Local Self-Government Code includes the brief allocation of authorities and this is complimentary. For example, if the water supply was centralized, now in the new code this function became the authority of the local self-government, likewise for organizing city transportation, etc. There is on-going discussion about decentralizing the ambulance and emergency service offices. Moreover, according to the new law, the central government has legislative control of the local government to a certain extent, to prevent abuse of power by the self-government and maintain it within legal frames. The self-governing entity is independent, and interfering in its activities and giving it assignments is inadmissible. The central government has the right to delegate certain authorities (e.g. implementing various infrastructural projects) to the self-governing entity. The delegation of authorities must be accompanied with the necessary material and financial resources.

As of today, there is only **single-level** (municipal level) local self-government in Georgia. Unfortunately, **two-level** (municipal and regional) self-government was not created. If the two-level self-government existed, the regional self-government could afford the implementation of projects of regional importance with its own budget and raise funds.

Because there is no two-level self-governance system, the new law created a Regional Consultation Council, a consultation body consisting of the governors (*Rtsmunebuli*²⁸) operating on the municipal level. The prime minister appoints the governor (previously appointed by the president). The function of the Regional Consultation Council is 1) to review the projects, programs, and expenditures submitted by the governor; 2) to review the socio-economic development strategy of the respective territory; 3) to work out recommendations for the governor in development planning and implementation for their respective territory. Since the central government appoints governors, with most of them having worked previously in law enforcement institutions, there is certain doubt that the Governors would control the local government.

Self-Governing entities are completely autonomous in planning their budgets, which are independent. The proper revenues of local-self government entities include local taxes and fees, cohesion transfers, and other receipts spelled out in Georgian law. The improper revenues of the budget of self-governing entities include target and special transfers and other receipts spelled out in Georgian law.

²⁸Rtsmunebuli - the representative of the executive in the administrative-territorial entities in Georgia.

To implement its authority fully, local self-government entities are handed financial aid in the form of cohesion transfers from the state budget.²⁹ The amount of the transfer is calculated using a formula. The process needs improvement, as the central government can allocate cohesion transfers in its favor with political motives, artificially putting different regions in uneven conditions.

It will be complimentary if a certain percentage of revenue tax is added to the revenues received by local governments. Fixing it on at least 40% would be appropriate. The respective amendment will significantly increase the revenues of local self-governments and would grant them greater financial independence from the central government.

The local self-government code fixed the remunerations of public officers employed at governor administrations, city halls, and city assemblies. They should not exceed 25% of the expenditures envisaged in the municipality budget. It will ensure protection against squandering funds (awarding excessive bonuses) in municipalities.

²⁹Georgian Law on Georgian Budgetary Code

6. THE GEORGIAN ORTHODOX CHURCH AND ITS ROLE IN POLITICAL LIFE

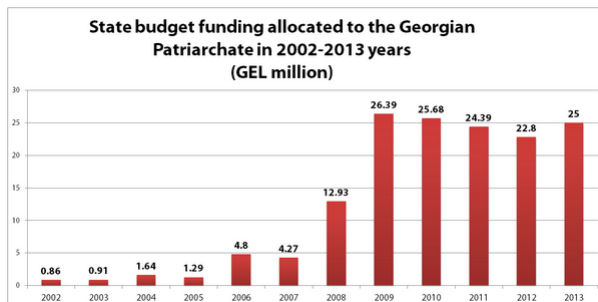
This section discusses the role of the Georgian Orthodox Church in politics and policy making, the situation inside the Church, and the increasing problem of inter-religious confrontation in the country.

Polls and approval ratings

According to opinion polls, the approval ratings of the Georgian Orthodox Church -- namely, the head of the Church Patriarch Ilia II -- has been over 90% for almost twenty years. In 2012, according to an NDI-commissioned poll, the Patriarch was liked by 92% of Georgians. In 2013, the Patriarch still enjoyed the highest favorable ratings of any figure, with 94%. In April 2014 NDI-commissioned poll, which was fielded and carried out by the Caucasus Research Resources Center (CRRC) Georgia, the Patriarch was still leading with 96% approval from the population. However, by August, the number decreased by 5%. Only 91% of the respondents were favorable of the Patriarch, 2% of the respondents expressed dislike, and the rest had either no clear position or abstained from answering. In the polls carried out by the International Republican Institute (IRI), most Georgians place high importance and confidence on the Church, as 94% of the respondents said the Church is the most trusted institution.

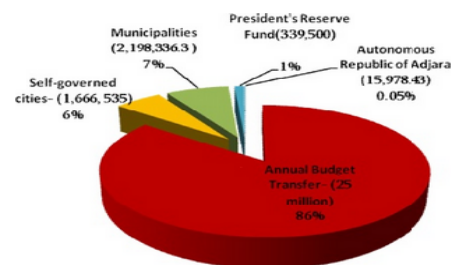
Financing for the Church from the government:

According to data provided by Transparency International Georgia, public financing provided to the Georgian Orthodox Church (GOC) during the period 2002-2013 amounted to approximately 200 million GEL. If in 2003 the GOC was receiving a little less than 1 million, by 2007 the numbers jumped up to 13 million and to 26 million in 2009. Financing gradually decreased to 22.8 million in 2012. However, in 2013 and 2014 financing of the GOC was back up to 25 million GEL per year.



More recently, the Human Rights Monitoring Center and the Tolerance and Diversity Institute published a joint report regarding the practice of funding religious organizations by the central and local government. By 2013, the total annual funding, including from central and regional governments, comprised

approximately 29,220,000 GEL. The research verifies that the funding policy under the new government has not changed -- and does not meet the requirements of a secular, democratic, non-discriminatory, and accountable funding system. As the report evaluates: "The results of the research indicate that the funding policy of the religious organizations is based on the approach of preference and absolute prioritization of the Orthodox Church. The scale of financial assistance for the



Orthodox Church by the central and local governments is big, its necessity is not justified by the public interest in most cases, and the amount is not based on sensible, measurable, and objective criteria. Despite the fact that the trend of research of funding from the President's and government's reserve fund share observed in the year of 2013, which should be assessed as a positive step, the actual funding system still gives the government an unlimited opportunity to influence the church through funding or acquire its loyalty. Further, the report reads that this poses a serious threat to the secular state order." As evaluated in the research, the funding policy of the Patriarchy has not changed.

In 2014, the government made a decision to also finance four other major religious groups (Muslim mosques, Armenian Apostolic Church, Roman Catholic Church, Jewish groups) from the state budget. This is certainly a step towards the right direction in terms of not discriminating on the basis of religious belonging and conscience.

GOC's involvement in politics

The high approval ratings of the Church would not be a problem if the clerics did not attempt to influence politics and policy-making. Usually this influence is not in favor of the country's democratic development and European integration. Intervention from priests also infringes on the principle of separation of Church and State.

The GOC's involvement in politics and the electoral process has been ubiquitous and mainly concerns the role and status of minorities (ethnic, religious, sexual), but also taking sides in the political confrontation between the two main political parties.

It is widely reported that on the Sunday before the October 2012 elections, clerics propagated during the weekly sermon to vote in favor of the Georgian Dream, in many churches throughout the country. During the latter Saakashvili years, church officials often criticized Saakashvili's administration because of its alleged "anti-Orthodox" policies. Among such policies was the introduction of biometric ID cards and granting an official status to other religious denominations in the country. Taking sides in politics continued after the 2012 elections as well. On November 18, 2012, senior cleric Bishop Jakob made a clear political statement against the UNM during his Sunday sermon. During the sermon he said that society has been waiting for an apology from the people who were ruling the country and drove it to the "abyss," and he equivocated the politics of the UNM government as "genocide."

Bishop Jakob continued slamming the UNM in 2014 as well. Right before voting day in local elections in July 2014, he called on church-goers to participate in the second round of voting in order to "reject" those "who are not repenting for what they have done with the country." He also called for the UNM to step aside and give way to others. The Election Code of Georgia prohibits political campaigning by the Church; this statement was severely criticized by NGOs as unlawful political campaigning. NGOs requested the Central Election Commission probe into Bishop Jakob participation in pre-election campaigning as a breach of election legislation and react in due legal manner.

Internal power struggles within the Church

When we speak of the Church, it is notable that the GOC consists of several competing factions obviously struggling for the eventual post of the Patriarch, for when after the ailing Patriarch Ilia II passes away. Ilia II's influence over the last thirty years has been fundamental and has therefore often affected the political situation in the country. The Church is ruled by the Holy Synod, which consists of 36 bishops. The Synod is not a homogeneous body and there are a few informal groupings in the Church, created around one or more influential clerics. Because of such internal confrontations the main position adopted by the Patriarch is not always shared throughout the Church. Various factions provide their own interpretations of the Patriarch's statements, as well as their own interpretation of political events in the country and internationally.

It is believed that there are three main centers of power within the Church. The first is around Metropolitan of Batumi Dmitri, who is a nephew and a protégé of the Patriarch. This group owns serious financial and human resources and is considered to be a frontrunner in the competition to take over the Patriarch's post after Ilia II. This group is considered to be extremely pro-Russian, against Western values, and against the principle of secularism. Chorbishop Jakob is from this group.

The second grouping within the Church is around the Metropolitan Iob, and it is the most radical faction in the Church. Iob has often publicly disagreed with the decisions of the Synod and has often confronted the policies of the government, including on such issues as the biometric ID cards. Iob has mobilized the most radical groups inside the Church and is suspected of having good relations with the criminal world and Russian businessmen -- however all these rumors are anecdotal. Inside the Church, it is believed that Iob's ascent to the Patriarch's throne could be a very confrontational step towards the government and the principle of secularism.

The third faction in the Church is led by the Metropolitan Abraam Garmelia; he is in charge of the European parish. This is the only group which has a more or less pro-European orientation and negative stance towards Russia. Metropolitan Garmelia is personally very influential and has served in the Holy Synod for a long period. He has good ties with the UNM government and was poised to take over the Holy Synod and the GOC after the death of the Patriarch. However, the outcome of the 2012 elections decreased his chances. He still remains influential in the Synod and has a strong group of supporters.

Involvement of the Church in public policy

Church leaders have regularly interfered in public policy issues. The weaker and more reluctant the government is towards the Church, the more powerful the Church feels and exerts its views on public life.

The most notable instance of the Church's intervention in public life concerned the anti-discrimination legislation passed in 2014, which introduced the notions of "sexual orientation" and "gender identity" as grounds for prohibiting discrimination. On the 30th of April 30, Orthodox groups and priests rallied in Tbilisi and Kutaisi to protest the adoption of the anti-discrimination law. Moreover, a few days earlier, on April 28, the GOC propagated that believers should be against the proposed anti-discrimination bill because it is "propaganda" and "legalizes" a "deadly sin" -- because the bill includes the words "sexual orientation" and "gender identity" as prohibited grounds for discrimination. During the

parliamentary hearings regarding the proposed bill, several clerics were in attendance and left the session in protest. One cleric explained: "Confronting the Church and the nation will do no good to the present government. "You have the example of the previous government, and now you are doing even worse."

Parliament adopted the anti-discrimination bill on May 2, 2014. Later, Ilia II said that legalization of "illegality is a huge sin," and will not be accepted by believers. The accusation is that the bill 'legalizes' or allows homosexuality. Ilia II proclaimed that: "Georgia is a country that never discriminated against anyone, and where everyone has felt free. But there are issues, which should not be admissible."

The issue of homophobia and Church interference in public policy began earlier, on May 17, 2013, the International Day Against Homophobia. Orthodox activists, led by priests, got into a confrontation with a small group of people holding a pro-LGBT rights rally in Tbilisi. The GOC held a counter demonstration of thousands of people and clashed with the small, dozens-strong anti-homophobia rally. Fortunately, police managed to get the protesters out of Freedom Square amid the attack. Four people were detained during the incident, charged with petty hooliganism, and freed. The biggest problem was that most police stood by doing nothing and allowed the angry mob to attack the peaceful protesters.

It was a flagrant violation of the principle of secularism, as the Church interfered (directly or indirectly) in state affairs concerning the status of religious or sexual minorities. Alienating minorities, and allowing both openly and secretly discriminatory groups to emerge, is something that the government is expected to prevent in order to secure the country's long-term and stable development. The lack of punishment, and lack of prevention, could even lead certain groups to perceive the government's attitude as encouraging the violence.

Another notorious case of Church interference regarded the KaZantip electronic music festival, held in Anaklia on August 20-30, 2014. The Church claimed that the festival was a sin – because there would be sex and drugs -- and that it should not be held in Georgia. For weeks the Church protested the festival. In the end, the music festival had an unexpectedly low turnout, and the organizers subsequently decided not host it in Georgia again.

The Patriarch has often expressed his views on the incompatibility of Georgian values with the European choice, however he has never expressly condemned the European Union or the path of European integration. In fact, after meeting with EU Commissioner Stefan Füle in the spring of 2014, he openly supported the idea of European integration. In many cases in general, however, the Patriarch has openly condemned modernization. In his Christmas Epistle of 2013, for instance, ***the Patriarch said that the Church is strongly opposed to surrogacy***, artificial insemination, and in vitro fertilization, because families with children born by surrogate mothers are not happy families.

Bidzina Ivanishvili's attitude towards the Church

Ivanishvili is not believed to be a religious person. He is known for having expressed strong disagreement with the Church before coming to power in 2012. He has been critical of the Church's interference in such issues as the anti-discrimination legislation. It is believed that he purposefully did not attend the Patriarch's birthday celebration in January 2014, to show

his discontent with the Church's position. In April 2013, Ivanishvili indicated that there are some serious problems in the Church and that these issues should be discussed publicly. In February 2014, Ivanishvili repeated his criticism of the Church and stated that the words of the Patriarch should not be perceived as "untouchable."

Inter-religious issues and confrontations with other religious denominations

There is worry that the Church's activities can lead to the alienation of the Muslim population in Georgia and to the emergence of inter-religious hatred and conflict. If before 2012 the Church was not outspoken against minority groups, and particularly religious groups of non-Orthodox denomination, then after 2012 they have felt more empowered, and the criticism has increased. Beyond criticism, a number of incidents have taken place which fuel inter-religious hatred. Among such prominent cases are the Mokhe mosque incident in October 2014; the Kobuleti incident in September 2014; the Nigvziani incident in September 2013; and the Chela incident in August 2013.

In the village of Mokhe, local authorities attempted to restore a partially destroyed, historically significant and controversial building, in order to open a public library, to the dismay of both the local Muslim and Christian community. Both groups claimed to be entitled to the building; the Muslims saying the building was a former mosque and the Christians saying it was a former church. Local police allegedly insulted the local Muslim population, which has increasingly been experiencing discrimination. There were protests and clashes in the village on several occasions over construction on the site. In Kobuleti, a group of local citizens, allegedly inspired by the GOC, slaughtered a pig outside a building intended to be a Muslim school -- and nailed the pig's head to the door -- as a sign of protest that they don't want a Muslim school in their neighborhood. The school has subsequently not yet been opened. The Mufti of Georgia declared that Muslims in Georgia were deeply insulted and offended by the incident. In Nigvziani, a religious conflict erupted between the local Muslim population and local Christians when the latter demanded local authorities to close down a Muslim prayer room and stop the construction of the mosque. The demands were accompanied by physical and verbal confrontations; the Church intervened, which further fueled the confrontation. In the village of Chela, a minaret was suddenly removed by the local authorities, allegedly because the construction materials were imported illegally and the minaret was erected unlawfully. The dismantling of the minaret caused widespread protests across the Georgian Muslim population. The Patriarchate and Mufti had to have an official meeting in order to sooth tensions. They even issued a joint statement which stated that the minaret should be restored in a neutral location and protected by the state. On the 27th of November 2013, the minaret in Chela was reinstalled, However local Muslims were already insulted and felt they were discriminated against because of their religion.

The GOC is intolerant not only towards Muslims, but towards the Jewish population as well. In December 2013, during the celebration of the Jewish holiday of Hanukkah, several people damaged a decoration and scene specially constructed for the holiday in Freedom Square. They demanded that a Jewish candelabra in freedom Square be taken down. Around 20 people, including Orthodox Christian priests, protested against having government officials mark the holiday, claiming that celebrating Hanukkah on the same day as a Christian holiday offended them. Police detained two people in the incident and charged them with petty hooliganism.

7. PROTECTION OF MINORITY RIGHTS IN GEORGIA

This section discusses the treatment of minorities in Georgia and the potential problems that emerged recently in relation to religious, sexual, and ethnic minorities.

Protection of minority rights in Georgia

Protection of minority rights (religions, sexual, etc.) has been an important issue in political and public discourse in Georgia over the last two years. Several incidents related to the violation of minority rights -- and particularly the May 17, 2013 homophobic violence led by priests -- have demonstrated the problems in both society's perceptions and attitudes towards minorities, as well as challenges in government vision and policies.

On the one hand, there have been several legislative and institutional changes aimed at improving the protection of minority rights. On the other hand, there are increasing incidents of violence against minority groups, which reveal the government's lack of political, to address the issue in practice. Part of the problem is the position of the Church, which has assumed the leading role in fighting those measures aimed at strengthening minority rights. The problem is also compounded by the conservative nature of Georgian society, and the prevalent existence of stereotypes and myths about minorities. The issue of sexual minorities has become one of the tools to fight public support for European integration, by antagonizing European values of minority protection with traditional Georgian values.

One of the major achievements was the adoption of the Bill on Eliminating All Forms of Discrimination – i.e. the anti-discrimination bill -- by parliament on May 2, 2014. The law prohibits any form of discrimination and creates a mechanism for monitoring discrimination through the Ombudsman's institute. The process of adopting the law proved extremely sensitive for society and caused high tensions. The Church played a decisive role in fueling public fears about the law and leading protests against it, including by disseminating inaccurate information about the law. Priests and conservatives tried to oppose the draft law by 'proving' that it would legalize same-sex marriages and, so on.

Despite now having a legislative framework of anti-discrimination, the cases of discrimination are not adequately investigated. On May 17, 2013, the Church organized a counter protest where priests and members of the Georgian Orthodox Church violently disrupted an LGBT-support rally in downtown Tbilisi, injuring approximately 30 people, including LGBT activists and police officers 14 people were hospitalized. The violent incident was aired all over TV, yet the authorities only filed charges against nine people, and only four were detained for disorder and minor hooliganism, and fined 100 GEL (60 USD).

During the last two years there have been frequent violations of Muslims' rights in Georgia. As discussed earlier, the incidents in the villages of Nigvziani (Lanchkhuti Municipality), Tsintskaro (Tetrtskaro Municipality), Samtatskaro (Dedoplistskaro Municipality), Chela (Adigeni Municipality), Kobuleti (Adjara Region), and Mokhe (Adigeni Municipality) prove that the rights of Muslims were infringed upon not only by the local population, but with the involvement of municipality representatives and the police. These incidents can be seen as a result of government inability to properly handle cases of religious harassment to conduct proper investigations. In his parliamentary report of 2013, the Public Defender called on the

law enforcement structures to conduct effective investigations into the above-mentioned cases, and even refers to the precise crimes under the Criminal Code. However, the government's inadequate reaction leaves the impression that minority issues are not taken seriously.

Another problem is the increasing use of hate speech by high-level government officials and politicians in the media. Hate speech was widely used when referring to Turkish, Arab, and Iranian citizens and Muslims in general, particularly in the pre-election campaign in 2012. Hate speech is usually used by GD MPs, as well as by representatives from Burjanadze's and Inashvili's political parties. Media houses like Obieqtivi and Asaval Dasavali often use hate speech too, however no steps are taken to either influence them or seek legal action against them. Instead, Ivanishvili has publicly endorsed Asaval Dasavali and claimed that it is his favorite newspaper.

Problems coordinating national minority policies

The National Security Council (NSC) under the previous government was in charge of coordinating the policies related to national minorities. The UNM government was often criticized for this, as it was argued that the minority issues were too politicized and securitized. Nonetheless, the NSC managed to coordinate the policies rather effectively and no major problems with minorities took place.

Currently, there is no strong coordinating center dealing with national minority policies. Issues pertaining to national minorities fall under the portfolio of the State Ministry for Reconciliation and Civic Equality, the Inter-agency Council on Minorities, and the president's advisor on minorities. While these state agencies are still working on minority governance policies, the National Security Council has lost that function, and so far there is no state body that can implement the same mandate. The Special Commission on Roma issues under the NSC has also been abolished.

These changes have left a vacuum on policies related to minorities. Because of this lack of coordination, and the absence of a strong policy center, several policy decisions made in the last two years in fact negatively affected minorities and instilled a feeling of insecurity. For instance, the decision of the Ministry of Justice in 2013 to regulate the citizenship issue of the Armenian population of the Samtskhe Javakheti region was completely uncoordinated with the State Minister's office. Many Armenians residing in Samtskhe originally hold Georgian citizenship, but have also received Armenian or Russian citizenship in violation of Georgian law. Technically, by law, these persons could then lose their Georgian citizenship, which would put them in a highly disadvantaged position. Similarly, it was not considered how the introduction of new anti-migration legislation in 2014 would affect Georgia's national minorities, as many ethnic Armenians and Azeris residing in Georgia will have to cross the border and exit Georgia to request legal residency permits.

8. STATE OF THE MEDIA

This section discusses the state of affairs of the media in Georgia, the media environment in general, political interferences in editorial policy, as well as the issue of ownership of media.

Media Environment

After the 2012 parliamentary elections, international and local observers indicated a general improvement in the media environment in terms of plurality. GRASS fully shares this position. According to the Reporters Without Borders' World Press Index³⁰, Georgia improved on the press freedom list in 2014 by 17 points compared with previous years, due to broader pluralism and low levels of censorship. Despite this general improvement, challenges concerning editorial independence and the working environment of journalists -- caused by a highly polarized society and political parallelism of the media -- still remain.

All major media outlets except Channel 9, which is owned by the family of former PM Ivanishvili, remain in the media market. Ivanishvili asserted that his decision to close the TV channel was aimed at avoiding the perception of using the station for partisan purposes. However two years later, GDS entertainment TV studio -- owned by Ivanishvili's son -- requested a modification of the company owned license in order to broadcast news and social-political programs. The channel's decision to launch a talk show co-hosted by Ivanishvili caused controversy in society.

Media Business

Financial sustainability still remains a key problem of the Georgian media market: TV advertisements declined by 10.2% (by 8.2 million GEL) in 2013 compared to 2012. According to the Georgian National Telecommunication Commission (GNCC)³¹, advertisements constituted 74.2 million GEL in 2013. TV channel Rustavi 2 holds the largest share (49.7%) of advertisement income, followed by Imedi TV (25.8%), Maestro TV (7.8%) and Global Media Group (5.5%).

TV MR Georgia - Nielsen Television Audience Measurement's official licensee holder - which is the only television viewership measurement company in Georgia (they provide business companies and media outlets with essential information for distribution of advertisements and programming, and have direct impact on the TV advertisement market), came under excessive check of the Revenue Service, undermining its normal operations since 2013. Under the pretext of inventory checks, the Revenue Service requested confidential information about the location of "people meters," devices that capture information about what is being viewed and when TV sets are turned on. The TVMR management claimed that to disclose such confidential information would undermine the credibility of the process itself, as well as the entire advertising and broadcasting sector. Nika Gvaramia, the general director of Rustavi 2 TV, alleged that the actions of the Revenue Service was directed against Rustavi 2, since the company was leading in the advertisement market and was often criticized by high-ranking officials for its critical coverage.

³⁰ http://rsf.org/index2014/data/index2014_en.pdf

³¹ http://analytics.gncc.ge/ka/annual_reports/?year=2013&page=3&subpage=_Toc389229077#_Toc389229077

Financial inspectors eventually left the TVMR office after widespread criticism stemming from NGOs.³² On April 3, 2014, Tbilisi City Court did not satisfy the request of the Revenue Service to reveal confidential data. However, according to the TVMR management, the tax inspection is not yet closed and another court hearing on TVMR's appeal regarding a fine imposed on the company (of 3,500 GEL) for not disclosing confidential sources will be held in December.

Georgian company TriMedia Intelligence, founded in 2014 by GORBI (Georgian Opinion Research Business International) and the owner of the *Kviris Palitra* newspaper, Mr. Tevdorashvili (51% shareholder), announced that a new international actor, Kantar Media, will appear on the market to measure television ratings by 2016. Representatives of some NGOs and media outlets expressed concern whether the involvement of media outlet *Kviris Palitra*, which is part of the *Palitra* holding (print, online, TV, radio broadcasting, publishing), presents a conflict of interests. Preliminary monitoring by Media Development Foundation indicates that the news agency *Interpressnews*, owned by the *Kviris Palitra* founder, receives permanent funding from the state budget of 11 ministries after the 2012 parliamentary elections, for producing and disseminating information on the activities of the relevant ministries.

The Georgian Public Broadcaster

The transfer of power in 2012 impacted developments in the Georgian Public Broadcaster (GPB): Giorgi Chanturia, the General Director of the GPB, resigned in December 2012; his successor, Giorgi Baratashvili, was fired twice by the Board of Trustees and subsequently reinstated twice by the court.

A month ahead of the October 2013 presidential election, two television political talk-shows -- "Emphasis," presented by Eka Kvesitadze, and "Dialogue," presented by David Paitchadze -- were closed on the GPB. According to the statements of acting Director General Tamaz Tkemaladze, the decision to close the shows was because of the alleged demonstrated bias and sympathies for the opposition political party of the TV presenters.

On October 4, 2013, the Chairman of the GPB's Board of Trustees Emzar Gogvadze said that MIA employee Irakli Tsibadze was putting pressure on him. Gogvadze also said that Georgian Dream MP Irakli Tripolsky requested that he resign from the Board. Tripolsky denied the accusation. In an interview with Media.ge,³³ another board trustee, Nino Danelia, confirmed that they were being pressured, but refused to name who requested her to leave the Board of Trustees. Two out of seven trustees -- Eka Mazmishvili and Avtandil Antidze -- resigned from the board by that time.

No investigation was launched following requests from NGOs (Georgian Democracy Initiative and Transparency International Georgia)³⁴ into pressure from an MIA employee.

³² http://mdfgeorgia.ge/eng/view_statements/137

³³ <http://www.media.ge/en/portal/articles/301512/>

³⁴ <http://gdi.ge/en/news/gdi-concerned-over-developments-in-the-georgian-public-broadcaster.page>; <http://transparency.ge/en/post/general-announcement/ti-georgia-ministry-internal-affairs-should-withdraw-officers-other-state->

Legislative Reform of the GPB

OSCE Media Freedom Representative Dunja Mijatović welcomed amendments to the Georgian Law on Broadcasting "ensuring greater pluralism and transparency in the work of the public broadcaster." Another positive step was the transformation of Adjara State TV into a Public Broadcaster as well.

At the same time, legal analysis³⁵ conducted on behalf of the OSCE and Mijatovic, on the proposed amendments to the law on broadcasting, also hinted that a gradual replacement of the board members under new appointment rules is preferable to a full replacement of the board.

However, the amendments approved by the parliament disbanded the incumbent Board of Trustees. The Constitutional Court, upon complaint of the dismissed trustees, ruled that the disputed norm and consequently early termination of power of the Board of Trustees was unconstitutional, restricting the right of plaintiffs guaranteed by Article 29 of the Constitution of Georgia.

The ruling of the Constitutional Court established a standard for future practice in order to distinguish political process with institutional reforms in the Public Broadcaster. However the parliament formally implemented the ruling of the court by the new amendments, introducing two chambers of the Board and leaving previous trustees without real power.

The parliament also failed to appoint 2 out of 3 trustees nominated by the opposition due to a lack of consensus, which is a precondition to ensure the plurality of the Board of Trustees.

Hate speech on the GPB

The Georgian Public Broadcaster's Board of Trustees did not satisfy the appeal³⁶ of nine NGOs and one individual regarding the ruling of the self-regulatory body on a hate speech case. In April 2014, a clergyman who was invited by the GPB to be a commentator for the live broadcasting of the Holy Fire Easter ceremony made statements inciting hate speech and discrimination against LGBT people. The Board justified its decision citing freedom of expression legislation, and refused to assess the case based on the Code of Conduct of Broadcasters providing extensive anti-discrimination provisions aimed at improving the quality of media reporting and accountability towards the public. The board also refused to take into account international mechanisms proposed by plaintiffs on how to ensure protection of live broadcasting from disseminating hate speech.

This is not an isolated case when leading Georgian NGOs issued statements³⁷ regarding discriminatory coverage, such as concerning the GPB's news program *Moambe* on various grounds.

³⁵ <http://www.osce.org/fom/100314>

³⁶ http://www.mdfgeorgia.ge/eng/view_news/27

³⁷ http://www.mdfgeorgia.ge/eng/view_statements/79
http://www.mdfgeorgia.ge/eng/view_statements/97

Another controversial issue was the recent appointment of Giorgi Popkhadze as the GPB's correspondent in the European Bureau; Popkhadze is well-known for using homophobic rhetoric.³⁸

Public criticism of media outlets by government officials

Immediately after taking office, high-level officials of the new government, including the former and the current prime minister, often publicly criticized media outlets that were critical in their coverage of government activities. In May 2014, the government press-service slammed Maestro TV anchor Vakho Sanaia, accusing him of bias and attempting to create the image that the government has not kept its promises to citizens.³⁹ On August 16, 2013, the founder of Maestro TV, Mamuka Glonti, accused the government of trying to meddle in Maestro's editorial policy and to "squeeze it out of the media market." In an interview on August 21, PM Ivanishvili's adviser Gia Khukhashvili blasted Maestro and alleged it would be shut down "due to its unprofitability."⁴⁰

The leader of the Georgian Dream's Ozurgeti branch, David Darchia, threatened the editor of the Ozurgeti-based regional newspaper Guriis Moambe (Guria News), and demanded the removal of material critical of the government from the newspaper's website.⁴¹ The newspaper was earlier controversially thrown out of its offices. Kote Sharashenidze, the acting head of the municipality, later stated the eviction was "ordered from above."⁴²

Rustavi 2 - a target of criticism from government officials

Rustavi 2 is the largest national broadcaster. It is critical of the current government and loyal to the previous one, and as such became the primary target of criticism of both the former and current prime ministers and other high-ranking officials.

Georgian Dream leaders have repeatedly questioned the legality of ownership of Rustavi 2 TV. Prime Minister Ivanishvili personally intervened in the discussion and demanded a revision of the channel's ownership,⁴³ which is under investigation.

On May 7, 2014, the Director General of Rustavi 2 Nika Gvaramia, said that a source gave the management of Rustavi 2 previously secret audio and video recording of him and the Head

³⁸**Giorgi Popkhadze, Journalist:** „It was Soso Jachvliani [MP] who introduced the term -“back givers”. Wasn't he the one who fought tirelessly against the pederasts?! Is not discriminated Georgia [re: adoption of antidiscrimination law] entering Europe with its back? I am asking the political majority: don't you remember yourselves lecturing us about Misha Saakashvili and accusing him of gathering “back givers” and homosexuals around us!" ([KVIRIS KRONIKA, 5 – 11May](#)).

³⁹ <http://www.media.ge/en/portal/news/302737/>

⁴⁰“Much of the Georgian Media Market Will Shut Down?” *Versia* 21.08.2013 URL: <https://docs.google.com/file/d/0Bx4aqMRo5pkhcDNLeHlvMWpxSjg/edit>

⁴¹“Former Prosecutor Threatens Guriis Moambe with ‘Annihilation,’” *Guriis Moambe* (In Georgian) URL: http://guriismoambe.com/?m=68&news_id=6117

⁴²“Kote Sharashenidze: Eviction of Guriis Moambe was ordered from above,” *Guriis Moambe* (In Georgian) URL: http://guriismoambe.com/index.php?m=105&news_id=6150

⁴³*Prime Time News*, 22.11.2012 URL: http://primetimenews.ge/?page=3&news_id=15529

of the Information Service, -- meaning they were bugged -- which, according to them, came from the MIA. Later Gvaramia also announced the discovery of locations in the Rustavi 2 Tbilisi office which were presumably used for installing eavesdropping equipment and covert video cameras.

Months later, on October 17, Gvaramia stated that his private online correspondence was hacked. The case has not yet been taken up by the Prosecutor's Office.

9. CIVIL SOCIETY

This section discusses the state of civil society in Georgia, the role of non-governmental organizations, their oversight functions, as well as relations with the government.

General state of affairs

Non-Governmental Organizations play an active role in Georgia's public and political life, mainly through monitoring the government's activities and advocating for human rights. Civil society is mostly dominated by watchdog type organizations. Though there are several think tank organizations, there is an apparent lack of policy recommendations and solutions proposed by civil society.

Improved government attitude towards civil society, and its openness in cooperating is perceived as one of the positive changes after the 2012 elections. While in certain ministries openness is visible, there are still government institutions -- mostly in law enforcement -- that are reluctant to cooperate. Moreover, there's an increasing trend of criticizing CSOs, particularly coming from the prime minister.

Georgian civil society organizations are almost fully dependent on funding from foreign donors. They receive almost no financial support from the government, local businesses, or their own members. The ability of civil society organizations to provide accountability of the government and influence the formation of governmental policy is restricted -- by the inner limitations of civil society (lack of qualified professionals and broad social base), and by the general political environment in which they operate (serious political polarization, intense political environment aggravated by divisions along party lines).

- There is little capacity to influence political developments owing to a lack of engagement and to clientelism;
- High dependence on western funds;
- Lack of the willingness on the government's side to engage in genuine cooperation, often labeling NGOs as being ruled by political forces;
- Barriers to retrieving public data;
- The positions of CSOs are often disregarded in spheres they lack legitimate power.

Civil society ability to influence policy-making

The number of NGOs occupied with watchdog and analytical activities is high, and includes ISFED⁴⁴, GYLA⁴⁵, GRASS⁴⁶, GDI⁴⁷, TI Georgia⁴⁸, MDF,⁴⁹GBA⁵⁰, EMC, CSO Georgia⁵¹, GFSIS⁵²,

⁴⁴<http://www.isfed.ge/main/home/eng/> (Retrieved 11.03.2014)

⁴⁵<http://gyla.ge/eng/news>(Retrieved 11.03.2014)

⁴⁶<http://grass.org.ge/en/> ((Retrieved 11.03.2014)

⁴⁷<http://www.gdi.ge/en/> (Retrieved 11.03.2014)

⁴⁸<http://transparency.ge/en>(Retrieved 11.03.2014)

⁴⁹<http://www.mdfgeorgia.ge/eng/home/>(Retrieved 11.03.2014)

⁵⁰<http://gba.ge/en/>(Retrieved 11.03.2014)

Civil Society Institute,⁵³ and so on. They effectively monitor the activity of the government. Nevertheless, the civil sector manages to effectively provide accountability of the government only in rare cases.

CSOs actively cooperated with the executive and legislative branches of government and lobbied to upgrade Georgia's legal framework against discrimination. Despite strong opposition from conservative and Orthodox groups, government entities and CSOs jointly submitted a draft law to the parliament that makes motives based on race, religion, sexual orientation, or other biases an aggravating circumstance to crime. Parliament approved the law as an amendment to the Criminal Code on May 2, 2014.

In March 2014, the project "This Concerns You Too" was launched, aimed at banning and regulating illegal phone wiretapping by the government. No government has made amendments in this direction, and the law enforcement authorities still have full access to telecommunication operators' data. The active interventions of the civil society organizations was instrumental in persuading parliament to accept the December 1st deadline for finding a legal solution to who should hold the "keys" to access telecommunications data.

On the other hand, there are important cases where civil society failed to influence the decisions of the government:

- The appointment of trustees in the Board of Trustees of the Georgian Public Broadcaster was an important event that included active CSO involvement. But due to their lack of real power or leverage (they don't have a right to vote), CSOs were confined to making statements;
- A similar case concerned TVMR Georgia and the Revenue Services in relation with 'people-meters' and TV ratings. NGOs failed to alter the government's decision and despite their objections, TV MR Georgia had to pay a fine for not cooperating with the Revenue Service -- particularly for not giving out the addresses of customers who had people meters. TV MR Georgia had to stop operating for several days because of the Revenue Service's investigations;
- Failure to raise standards of accountability, such as by regularly publishing information concerning activities, funding, and spreading it through innovative technology and social networks;
- Developing social entrepreneurship as a part of civil society is yet to be achieved;
- Not enough outreach to target groups, communication with society, deepening cooperation with young people and retirees, which are the social groups that feel marginalized;
- Regulating labor safety is still not addressed by civil society and there are no effective activities carried out in this field.

⁵¹<http://www.csogeorgia.org/home/eng>(Retrieved 11.03.2014)

⁵²<http://gfsis.org/>(Retrieved 11.03.2014)

⁵³<http://www.civilin.org/Eng/>(Retrieved 11.03.2014)

Even though Georgian NGOs monitor the actions of the government quite actively, it still does not affect the decision-making process enough. This is due to both the tense political environment and intra-organizational factors.

Considering the political environment, there are many cases where the government perceives some civil society groups as **supporters of the previous government**, and refuses to cooperate. The government assesses their remarks/recommendations as an attack governed by the opposition. The PM associated the project “This Concerns You Too” with the United National Movement and subsequently called it a catastrophe.

The efficiency of the monitoring and advocacy capabilities of CSOs is minimized because of the **inattentive attitude** towards most of them. Civil society failed to persuade the ruling power to amend the mechanism for impeaching a mayor or governor in the Law on Local Self-Government, so that possible future political manipulation could have been avoided (and the respective City Council would not have the right to dismiss the Mayor).

In January 2014, civil society addressed the government several times to start an investigation concerning the instance when former Prime Minister Ivane Merabishvili was illegally taken out of prison. They failed to force the government to carry out a full investigation on the information available. The government confined itself to the official investigation carried out by the Ministry of Corrections.

CSOs criticized the government for its ineffective policy regarding the recent rise in domestic violence and murdered women, and asked they start working on a long-term strategy. Despite the dramatically high number of victims (24 women killed in the last three months), the government was initially ignorant to the problem. Justice Minister Tea Tsulukiani stated in a TV interview that “the reality is that this year men succeeded in crime, and killing women is promoted.” After much public outcry the government started to work on a wide-scale strategy to persecute violence against women.

The ability of civil society to influence the state and stabilize it has also decreased because of intra-organizational factors. The absolute majority of Georgian CSOs lack **diversified financing and stable sources of income**.⁵⁴ Their expertise is also in decline because of the **staff drain from the NGO sector to the government**. Governmental structures mainly recruit staff from civil society, and the organizations experience problems maintaining their human resources.

Nearly all researchers in the civil sector note that the ability of CSOs to act as mediators between the state and society is extremely limited by the circumstance of **not having social roots**, which, in turn, is caused by the “weak” connection with the interests of the citizens they say they represent. This naturally decreases the legitimacy of organizations. As there are few membership-based non-governmental organizations, most of them cannot speak on behalf of big social groups while having a **dialogue with political actors**. In addition, the biggest and the most active NGOs **are concentrated in Tbilisi**, while the strength of the organizations operating in the regions is notably lower.

⁵⁴2012NGO Sustainability Index for Central and Eastern Europe and Eurasia,pg. 80, 82(Retrieved 11.03.2014)

In general, CSOs cannot establish productive working relations with the government. Often, the **format of the interaction with the government** does not enable them to reach their goals. Communication with public structures and receiving public information remains a problem, especially when it comes to the law enforcement institutions. According to the Ombudsman's 2013 report: "In the reporting period, the ombudsman's office received several notifications according to which the attorneys and/or lawyers of the office experienced communication problems with the investigational bodies of the Ministry of Internal Affairs... The availability of the public information is a problem as well, especially when a person is detained and/or is being interrogated as a witness. Determining the responsible persons for the certain cases and communicating with them is also a problem⁵⁵."

It also happens very often that the government does not credit the non-governmental sector as a creator of the public agenda because of its **low visibility** on the political arena, and thinks that it is incapable of forming policy. During communication, the government often underlines that there is one other than donors standing behind the non-governmental sector, and therefore does not pay attention to its initiatives and recommendations. One such case resulted in depriving the Sakdrisi gold mine of its status as a historical site.

Eastern Partnership Civil Society Platform

The role of the Eastern Partnership Civil Society Platform in the development of the civil society should be noted. The platform has been operating successfully for six years already. The projects operated by them indeed promote the integration of European practice in Georgia. In spite of it, the results of the common assembly of the National Platform of Georgia that took place on December 24, 2012 remain unexplained. Certain organizations were excluded from the platform due to inappropriate behavior (such as the European Studies Center of Ivane Javakhishvili Tbilisi State University) and no new organizations were accepted.

GRASS and other newly founded organizations have had problems joining the Eastern Partnership Civil Society Platform or even taking part in the activities it organized, despite that the expertise held by GRASS and other newly established NGOs is significantly higher than most of the NGOs in the platform.

New NGO "Citizen" (Mokalake) by Bidzina Ivanishvili

The establishment of a new non-governmental organization, "Mokalake," by Bidzina Ivanishvili in January 2014 was noteworthy. The declared goal of the organization was to raise the awareness of society in general. Its first project -- re-training of the media and journalists -- fell short and was not implemented. Ivanishvili frequently comments on this with disappointment. Another pilot project of Citizen is to re-train analysts and thinkers. Obviously Citizen launched the project which Ivanishvili discussed in detail during a live interview on November 8, 2014. It is worrisome that Mr. Ivanishvili believes that NGOs could be used to reformat thinking in the civil society and expert community to fit his interests and rhetoric.

⁵⁵Public Defender 2013 year annual report pg.157

Citizen also has two other projects: Civil Education Olympiad and Students for Self-Government, which are aimed at schoolchildren and students. According to the former PM, the budget of each project will amount to more than half a million GEL. In his recent interview on the Public Broadcaster, Bidzina Ivanishvili harshly criticized civil society for being biased and lacking the capacity to “properly analyze” political developments.

In general, Citizen has not managed to appear heavily in the CSO landscape. It has neither joined initiatives by various NGOs nor come up with its own initiatives. One thing remains clear: If Mr. Ivanishvili continues to support Citizen and invest heavily in its activities, it could be an active player in the civil society. Its main problem will be to get rid of the “gongo” status and acquire credibility.