



NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY

GEORGIA

A CASE STUDY

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Georgia

1. Executive summary

This case study attempts to describe the reasons for corruption in Georgia and results achieved by the Georgian government and society in the fight against it. In common with many post-Soviet countries there is a high level of corruption in Georgia. Corruption has impeded development of the state and implementation of market and economic reforms; it has impoverished the population and degraded the government.

President Shevardnadze's government was so unpopular that his only means of retaining power was through corruption and election rigging.

As a result of pressure put on Shevardnadze by international and local non-governmental organisations and the public, he was forced to develop some anti-corruption programmes and to adopt relevant legislation. He continued, however, to apply the same rules of governance, which brought catastrophe to the country. Shevardnadze's resignation and the election of young and experienced politicians was a logical end to this process.

The main directions of the new government's reforms were: the implementation of anti-corruption measures; their enforcement through institutional reforms; and the introduction of open market rules. The government has taken the following punitive and preventive steps: Note for Dominic—the UN Convention using the term “preventive” measures so I guess we should too.

- The arrest of several former ministers and high-ranking officials and the recovery of hidden and embezzled funds;
- The adoption of legislative changes aimed at suppressing unlawful income derivation, restricting conflicts of interest and applying strict measures of punishment against corrupt offences; and
- The enhancement of transparency and abolition of corrupt institutions.

The government's efforts resulted in unprecedented support from its citizens during the elections. The government also hopes to receive serious support from international donors, who consider the launch of a decisive fight against corruption as a significant argument for the continuation of financial aid to a country. So far it has succeeded in tackling corruption within such traditionally corrupt sectors as the police (policemen are no longer racketeering on the streets) and tax services (treasury income in the first three quarters of the year has exceeded last year's total results).

It is the policy of Georgia's government to cooperate with international and local organisations for the development and improvement of the government's anti-corruption strategy. Institutionalisation of the work and the implementation of preventative anti-corruption measures will, it is hoped, enable Georgia to continue to succeed in the fight against corruption.

2. Country overview: pre-transition and transition

Georgia is a small country with an area of 70,000 square kilometres and a population of about 4 million. Georgian statehood is believed to be more than 3000 years old. The country has been invaded twice: by the Russian Empire at the end of the 18th century and by the Soviet Red Army in 1921.

A parliamentary republic, Georgia has the President at its head under the Constitution of 1995 and he also headed the executive government until 2004. Judicial power in Georgia is composed of constitutional, supreme, regional and district courts. There is a three-tier system of local government, which is not characterised by a high level of decentralisation. The executive government itself is centralised and there are no clear rules of accountability towards the population.

To fully comprehend Georgia's current, daunting challenges, one needs to look at developments since independence in 1991. Georgia has struggled for well over a decade with two separatist wars (South Ossetia and Abkhazia) that created about 300,000 internally-displaced persons and led to a loss of 30 per cent of the country's territory. Governance deteriorated, corruption became rampant and state institutions were debilitated. As the capacity to govern declined, the general downturn in public sector management that had been aggravated by corruption led to dramatically shrinking state revenues. Under a worsening fiscal situation and lagging foreign investment, the country's poverty indicators showed that social conditions in the country had deteriorated even further. In November 2003, the people of Georgia rose up to protest against massive electoral fraud and continued economic decline, leading to the resignation of former President Eduard Shevardnadze, in what is now known as the Rose Revolution. Subsequent presidential elections gave a broad mandate to the new president, Mikheil Saakashvili, who received 97 per cent of the popular vote.

Corruption is a serious problem in Georgia. According to Transparency International (information is taken from "*Georgian Government's Strategic Vision and Urgent Priorities in 2004-2006*" report to the Donors Conference), out of 133 countries surveyed, only six had a worse Corruption Perception Index than Georgia in 2003. Corruption hampers the country's political and economic development.

The key reasons for widespread corruption in Georgia can be found in its past, as well as in the political and economic developments of its transitional period. The communist regime created a huge state apparatus in the country, with declining effectiveness.

The Soviet economic and political systems were based completely on corruption. Significant decisions were made through bargaining at the level of central government. This was reflected across business, organisations and the ordinary population through the rule of "investing" through bribes. In Soviet Georgia there was no distribution of financial and material resources without bribery and nepotism.

According to non-market rules of life and business persona and intellectual qualities and hard work did not guarantee material well-being. Rather, one needed a special ability (the so called "mariphathy") to find a corrupt bureaucrat and/or to offer bribes. This rule of both life and business was effective for finding a profitable job, for purchasing scarce goods, for selling the low-quality goods of a business etc.

It was a similar story for institutions, factories, film studios and theatres, sport clubs and federations. Investment and trade in goods were carried out under the so-called “20% rule”, which implied recovery of 20% of the allocated resources in cash to the bureaucrat who had allocated them.

After the collapse of the communist regime, old stereotypes of thought and action, as well as the corrupt state machinery, remained. Society needed time to study and implement mechanisms of civil control over government offices and their activities.

The afore-mentioned way of Soviet life was the only one known to the majority of the population, and carrying out activity within civilized market structures and open and transparent institutions was difficult and sometimes even unacceptable to them.

The ineffectiveness of the reforms of the 1990’s had brought the country to deadlock: permanent economic backwardness, inflation and devaluation, permanent changes in the government leading to instability, the impoverishment of the population, a strong immigration stream (according to 2001 data, there were 4.4 million people in Georgia, while in 1989 there were 5.4 million people), and a black market economy (according to the official data of the Department of Statistics, in 2001 the black market made up 57% of the whole economy).

The existing level of corruption in Georgia had cast doubt on the effective functioning of state institutions, hindered the country’s economic development and reduced its attraction for foreign investment.

According to Transparency International’s 2002 Corruption Perceptions Index, out of 102 countries surveyed, Georgia was in 85th place. Similar indices were published by other international organisations (e.g. The World Bank, Quality of Growth, 2000).

Georgian Opinion Research Business International’s survey results in 2002 (available at www.gorbi.com):

Figure 2-1. Most important factors affecting corruption

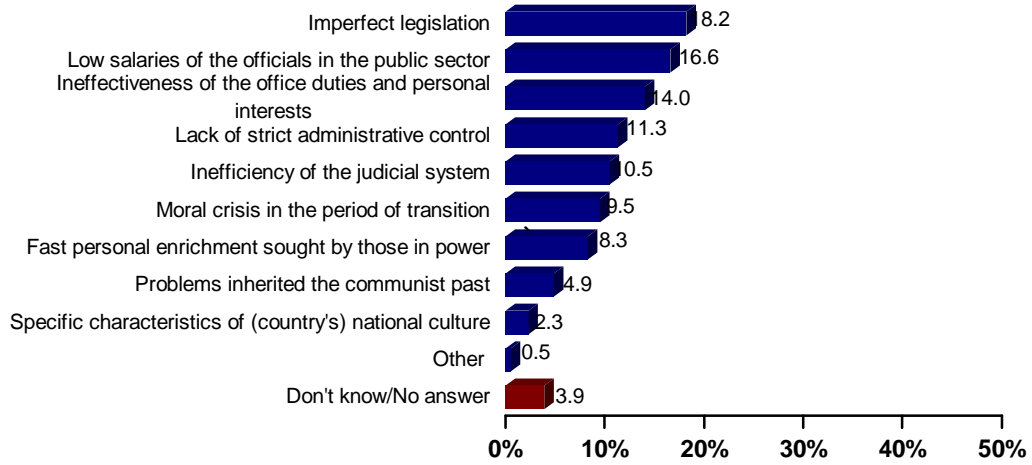


Figure 2-2. Effectiveness of bribing an official

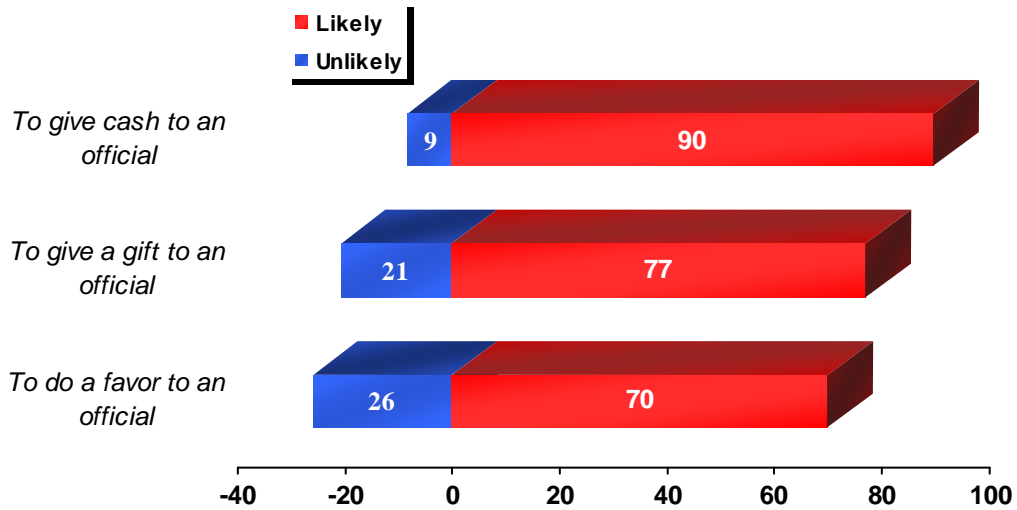


Figure 2-3. Level of spreading of corruption in different institutions

	Most or almost most involved, %	Few or scarcely anyone involved, %	Don't know/ No answer, %
Customs officers	73	23	4
Police officers/ Investigating officers	70	27	3
Tax officials	66	29	5
Ministry of revenue	60	33	7
Public prosecutors	59	36	5
Ministers	57	37	6
Judges	56	39	5
Members of parliament	56	39	5
Officials at ministries	54	40	7
Lawyers	47	47	6
Municipal officials	47	47	7
Staff of chamber of control	46	45	9
Administration officials in the judicial system	46	45	9
Bankers	36	52	12
Business people	33	60	7
Local political leaders	30	57	13
Political party and coalition leaders	30	57	13
Doctors	27	70	3
University officials or professors	21	72	7
Representatives of non-governmental organizations	20	63	17
Journalists	10	82	8
Teachers	8	88	4

As these surveys indicate, the population believed the most corrupt spheres were customs (73%), the police (70%), and tax inspection (66%). The main reasons for corruption identified by the population were imperfect legislation (8.2%) and legal wages (6.6%).

Presidential Decree #296, of July 2000, established a group for the elaboration of a National Anti-Corruption Programme. The group presented a draft programme “*The Main Spheres and Proprieties of the Anti-Corruption Policy*” within a fixed timeframe.

The anti-corruption council and bureau drafted recommendations on the basis of the document developed by the group¹. These recommendations make reference to the following significant directions:

- Reorganisation of the executive power system and increased remuneration for civil servants;
- Liberalisation of the business environment;
- Financial management of state funds;
- Education system issues;
- Law enforcement agencies;
- Representative democracy.

Anti-corruption recommendations presented by the council were approved by Presidential Decree #95, dated 15 March 2001, “*On Some Initial Anti-Corruption Measures*”, by the Presidential Decree #758 dated 27 July 2001 “*On the Approval of an Anti-Corruption Measures Plan*,” and by Presidential Decree

¹ This refers to the Georgian Anti-Corruption Policy Coordination Council and the Georgian Anti-Corruption Bureau, which are discussed in more detail below.

#430, dated 17 April 2002, “*On the Approval of the Plan of Anti-Corruption Measures*”. The Anti-corruption Bureau has monitored the process of implementing these decrees.

The Georgian Anti-corruption Policy Coordination Council was formed on the initiative of the President of Georgia on 13 April 2001 to detail, coordinate and monitor the implementation of the country’s anti-corruption policy.

The Georgian Anti-corruption Policy Coordination Council has reviewed the facts of violations of law by several high-ranking officials. The obtained documents were sent to the Georgian President and the relevant law enforcement bodies.

In spite of the efforts of the Georgian Anti-corruption Policy Coordination Council, the Georgian Anti-corruption Bureau, foreign and international donor organisations and local NGOs, the majority of tasks stated in the Presidential Decrees have not been fulfilled. The reason was the absence of a political will to fight corruption in the executive, legislative and judicial powers of the country. The prevailing corrupt environment required the implementation of preventive as well as repressive counter-measures. But the state machinery - immobilised by corruption - did not allow this to happen.

Fulfilment of the Presidential Decree, “*On Some Initial Anti-Corruption Measures,*” was monitored by an NGO anti-corruption coalition. The main goal of this Decree was to ensure the availability and transparency of public information by state institutions. The monitoring revealed the absence of a political will at all levels of government to carry out anti-corruption measures. Here is a brief extract from the monitoring report:

“The monitoring proved that, without constant social pressure and control over government, it could not be expected to carry out important anti-corruption policy. Additionally, the joint work of the representatives of civil society proved the efficiency of coalition work: the anti-corruption activities of non-governmental organisations of different interests, experience and background are more effective and active when it is based on co-operative grounds.”

Anti-corruption activities of NGOs had continued through the assistance of the Open Society-Georgia Foundation, the Eurasia Foundation and other donor organizations, which greatly contributed to the growth of the public’s distrust towards the state machinery.

In spite of President Shevardnadze’s promises and formal measures, corruption has become rampant within state structures. International donors have decided to reduce or even suspend the assistance of certain programmes because of such an increase in the level of corruption. For instance, in 2003, the government did not receive most of the institutional credits or grants, which it had anticipated for the execution of the state budget.

The November 2003 Rose Revolution in Georgia erupted in response to widespread corruption, forcing the incompetent government to resign and creating new opportunities for fighting corruption.

3. Initiatives taken by the new government

During the November 2003 parliamentary elections, a grave situation from the point of view of corruption emerged in Georgia. Despite the fact that all opinion polls predicted the failure of government to win a majority of seats (following the poor performance of the governmental party during local elections), the government attempted to rig the elections anyway and thus retain its position. In spite of large-scale rigging, however, the government managed to win only 20% of seats, whereas four opposition parties cleared the 7% barrier and won more than 50% of seats in total. The Georgian population protested against the massive electoral fraud, and three weeks of rallies resulted in the government's resignation.

3.a. Events following the 2003 Rose Revolution

It is natural that, following the "Rose Revolution", opposition parties have attempted to immediately fulfil their major promises: holding fair and transparent presidential and parliamentary elections; launching a large-scale fight against corruption; arresting corrupt officials; and initiating reforms across all levels of government.

The Rose Revolution deserves special attention because it was driven by two main "engines": young, but very experienced political leaders, and one of the most developed NGO sectors and mass media in post-Soviet countries.

The young political leaders played a significant role in the revolution. Two of these leaders (the future president of Georgia and the prime minister) were opposed to the then president Shevardnadze's ineffective policy of fighting corruption, which resulted in their resignation (Saakashvili resigned from his post as Minister of Justice and Zurab Zhvania resigned from the parliamentary chairmanship). The future president of Georgia, Saakashvili, became opposed to Shevardnadze's corrupt rules of governance during the period of his ministry. He has unmasked corrupt officials, which has extremely irritated the governmental elite, but it has brought great hope to the Georgian people that, even with such a government as theirs, change is possible.

The work and efforts of local non-governmental organisations deserve acknowledgement, as they have encouraged politicians and the mass media. Leaders of NGO's from the Liberty Institute, Georgian Young Lawyers' Association, Open Society, Georgia Foundation, etc., have managed to convince the opposition to take immediate steps.

This pre-revolution mood has been sustained by the young political elite since the revolution. The new government has gained the support of the majority of the population through making examples of people and by taking decisive steps. Saakashvili received 97 per cent of votes in the presidential

elections in January 2004. The ruling party has a majority of seats in parliament allowing it to make quick decisions and to implement the most difficult reforms.

The new government has taken many steps towards eradicating corruption. It is working on the development of an anti-corruption strategy together with the non-governmental sector, which will reduce corruption. The government has already detailed the first version of its strategy, which is now being improved.

The participation of Georgia in regional and other international programs (Transparency International Georgia, Anti-corruption Network of Transitional Economies, etc.) is worth mentioning. A number of significant recommendations have been developed by these organisations, which are included in the government's anti-corruption programme.

3.b. Designing a realistic plan of action

Constitutional changes

The Georgian Parliament approved the constitutional law "*On making amendments and addenda to the Constitution of Georgia*" on 6 February 2004. In accordance with the constitutional changes, the president of Georgia became the head of the state. A post of a prime minister has been introduced to head the executive government.

The prime minister, state ministers and ministers became members of the Georgian government.

Reorganisation of the government executive

The ineffective government executive has been fully reorganised on the basis of the law "*On the Georgian government's structure, authority and the rule of activity*". Out of the three former types of governmental institutions (ministries, state departments, and sub-departmental institutions), only two remain (ministries, sub-departmental institutions). In accordance with the law, 18 state departments have been closed down. They have been incorporated within ministries. The number of ministries has been reduced and 15 ministries have been created. The number of governmental institutions has been optimised and governance mechanisms have been improved.

The government intends, and has already made some steps towards, public service downsizing and a reduction of its functions. Examples of this are the trimming of police staff, whereby thousands of policemen have been dismissed. Furthermore, the new economics minister has abolished two of the ministry's agencies the Price Controlling Inspectorate and the Anti-monopoly division - on his own initiative. He also refused to supervise the State Procurement Agency and proposed to make this agency independent.

Another characteristic of the new government is the enhancement of transparency. Websites created by ministries and agencies deserve special attention: The Parliament of Georgia: www.parliament.ge, the Ministry of Finance: www.mof.ge, the Ministry of Economic Development: www.privatization.ge,

the Ministry of Education: www.mes.gov.ge, the National Bank of Georgia: www.nbg.gov.ge, Central Electoral Commission www.cec.gov.ge, etc.

Information on the activity of these organisations, their plans and achievements, etc., can be found on these websites. For instance, the Ministry of Finance publishes weekly information on the collection of revenues and their distribution.

The Government intends to take the following steps towards the provision of good governance and the fight against corruption:

- Institutional reforms
- Civil service reform
- Management of public expenditure
- Liberalization of the business environment
- Self-governance

The National Security Council Anti-corruption Department

One of the tasks of the National Security Council Anti-corruption Department is to organise and coordinate the development of state strategy in the fight against corruption.

At this specific stage work is being carried out to define the final position of the Anti-corruption Department within government.

The Development and Reform Fund

The Charter of the Development and Reform Fund has been approved on the grounds of the law “*On the Development and Reform Fund*” and presidential decree #33, dated January 27 2004.

The Fund aims at:

- Implementation of institutional and public reforms;
- Training of civil servants;
- Implementation of necessary measures for the adequate remuneration of civil servants;
- Drafting of normative acts necessary for the implementation of institutional and legal reforms in the country.

The Development and Reform Fund has been created with the financial support of the UNDP and the Open Society Institute.

3.c. Keeping up the reform momentum

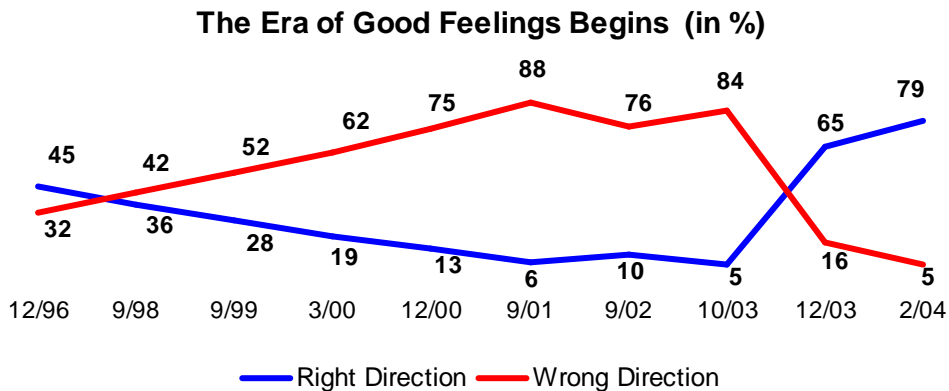
The government has achieved its first success in the fight against corruption. This is reflected in the suppression and eradication of its most corrupt bodies, as well as in institutional changes initiated for the elimination of corrupt systems and the creation of an environment to make its civil service more efficient and transparent.

The government has started working on the development of a strategic document on the fight against corruption in cooperation with international donor organisations and local NGOs.

The Georgian people support the governmental programme of combating corruption. This is reflected in a US Department of State report that shows the people of Georgia have trust in their new government and that this trust is rapidly

Figure 3-1 below outlines this:

Figure 3-1



The government has used PR techniques such as televised arrests of corrupt officials, the dissemination of information about the actions brought against them and the public denunciation of corrupt institutions.

The government’s strong resolve in fighting against corruption is also illustrated by the arrests of one of the representatives of the ruling party and a member of parliament for extortion.

The President of Georgia and members of the government (particularly the Ministers of Finance and Interior and the prosecutor-general) are playing an important role in anti-corruption activity and the formation of people’s attitudes. The firm stance of these people is essential. The role of the parliamentary chairman should also be noted (and it is worth mentioning that the chairman is a woman).

Non-governmental organisations, which were actively involved in the fight against corruption before the Revolution, still continue their activity and cooperate with the government in the development of the anti-corruption program.

3.d. The results

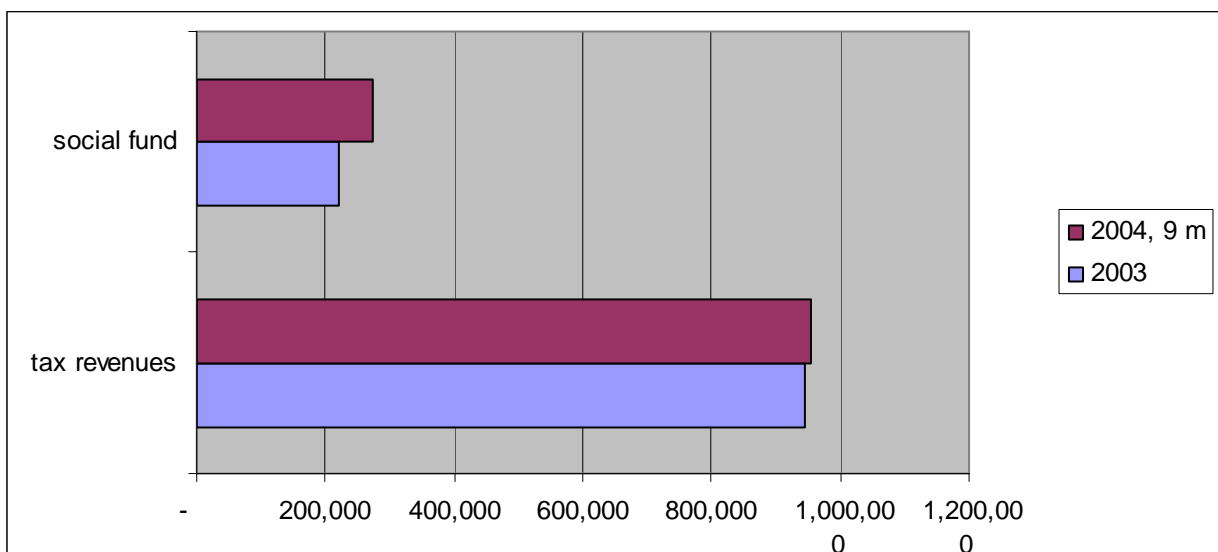
The greatest efforts of the new government in reducing corruption have already yielded certain results. The growth of budgetary revenues is a clear example of this.

The increase in state revenues during 2004 is impressive. During 9 months (as of October 1), the state budget received more than GEL 953 million, while the previous year’s budget revenues totalled only

GEL 945 million. Increase in revenues received from social taxes is particularly interesting, exceeding the previous year's annual rate by GEL 56 million by September. Such results prove that the government has a firm position and a strong will to carry out a far-reaching policy in terms of tax mobilisation.

At the same time, it is important not to implement such a policy at the expense of fresh violations of the law. No goal is more important than that of the creation of a state where the supremacy of the law prevails. The government itself has a duty to be a good example in its adherence to law while governing the state. Cases regarding the payment of taxes or any other debts owed to the government should only be decided by reference to the law.

Figure 3-2. State Budget Revenues Collection 2003 and 9 Months of 2004



It is expected that the launch of vital reforms by the government will result in increased attention from international donors and an increased volume of aid. As discussed above, the UNDP supported and administered the program of Civil Service System Transformation. Intensive consultations are being held to attract more credit and financial assistance. Several programmes have also been financed by other countries and allies of Georgia. Georgia's unexpected inclusion in the Millennium Challenge Account, administered by the US government, can only be explained by the decisive steps taken by the Georgian government.

Reforms at the Ministry of Interior

The Traffic Police have been abolished at the ministry of interior and its functions, as well as ordinary police duties, have been transferred to the Patrol Police, which was created this summer. Initially the Patrol Police covered only Tbilisi: 160 special cars were purchased for this purpose and policemen selected as a result of special examinations and tests to reveal the best personnel. At this stage, the selection of new candidates is being conducted and the selected candidates will be sent to Georgian regions.

The former government was offered the chance to introduce the Patrol Police a few years ago, but there was no political will at that time. This issue is also interesting since it was blocked by the Traffic Police, the representatives of which believed that patrolling on streets and highways was the best way to fight crime. The introduction of the Patrol Police has not led to an increase of crime on the streets. As the policemen are now in a strong position, the desire to offer bribes has been reduced.

The law “*On the technical inspection of cars*” has been suspended until 2007 on the initiative of the president. This law facilitated corruption and had no influence on the quality of motor vehicles or the security of citizens. There has been an unprecedented reduction of staff in the police service, which has seen its numbers halved. This staff reduction aims at the mitigation of corruption pressure and the transparency of police activity.

Education reform

Reforms in the educational sphere - one of the most backward and corrupt areas of society is one of the top priorities for the new government. The new Minister of Education has promised the public that the government will take decisive steps. The ministry has developed two drafts (one on secondary education and one on higher education), which aim at the eradication of corruption in the educational sphere through the application of public management rules.

It is also interesting that the people who introduced the subject of anti-corruption education into schools now hold leading positions at the ministry.

It is obvious that corrupt institutions established at schools will have a negative influence on students. That is why anti-corruption measures implemented in the educational sphere are very important.

As expected, those people who have been involved in corrupt deals and benefited from them are against such reforms.

At the same time, those people who consider that unnecessary expenses are being incurred by the education system or who know that the state funds spent in this sphere are useless, support the implementation of radical reforms. Such reforms should create mutual obligations, so that both users and actors are satisfied with the outcome.

The government intends to continue reform of the judiciary, which was suspended under the former government. The introduction of a jury system and the optimisation and reduction in the number of courts are considered to be two necessary steps for this to be achieved.

Government is actively working on reforming the public sector. The main strategies are detailed below. To this end, first steps were taken to improve the wage system by increasing salaries of the most important public servants, such as policemen and tax collectors. Separately, the Ministry of Justice is working on a draft of Code of Ethics.

Unlawful and unjustified property

On 13 February 2004 the Georgian Parliament approved the Organic Law of Georgia “*On making amendments and addenda to the organic law of Georgia on the prosecutor’s office*” and the law of Georgia “*On Addenda to the Code of Administrative Procedures*”.

These laws defined the prosecutor's authority to bring action on the transfer of unlawful and unjustified property to the state under the rule established by the administrative procedures.

According to the Georgian Administrative Procedures Code, if the court, on the grounds of the Prosecutor's claim, rules that the property of a public official, his family member, close relative or related person is illegitimate or unjustified, the indicated property shall be transferred to its legitimate owner. If the latter cannot be determined, the property shall be transferred to the state.

New obligations to prove the origin of officials' property and reorganisation of the Public Officials' Finance and Property Declaration Bureau

On 13 February 2004 the Georgian Parliament approved the law "*On making amendments and addenda to the law "On conflicts of interest and corruption in the civil service"*".

According to these amendments, a person is not allowed to occupy a position until he/she submits a property declaration to the Public Officials' Finance and Property Declaration Bureau.

It is a significant improvement that an official now has to prove the origin of the property indicated in the declaration through the submission of relevant documents or a written explanation.

Amendments and addenda to the criminal procedure laws

The Parliament of Georgia approved the law of Georgia "*On making amendments and addenda to Criminal Procedure Code of Georgia*" on February 13 2004. The law has become stricter with respect to the unlawful property and has simplified the process.

Steps taken towards the restoration of legality

Since the appointment of a new prosecutor-general in January 2004 criminal proceedings have been initiated against:

- *The former minister of energy supply and transportation and communication,*
- *The former chairman and deputy chairman of the Tax Department,*
- *The former chairman of the Customs Department,*
- *The former chairman of the Chamber of Control,*
- *The former head of the traffic police, the former head of the Forest Department,*
- *The former head of LLC Georgian Railway (state company),*
- *The president of the Georgian Football Federation;*
- *The founder and director of LLC MAGTI (son-in-law of a former president);*
- *Other officials and businessmen engaged in corrupt deals with the government representatives.*

The criminal cases initiated against these people are being investigated. Many of them have paid compensation for the damage done to the state and have been released from pre-trial detention. The state budget has recovered more than GEL 45 million.

Opposition to the reforms

It is not surprising that the reforms and the fight against corruption have opponents. It is clear that those clans and “elites” who derived benefit from corruption could not put up with such developments. The government of the Adjarian Autonomous Republic, which hoped to receive assistance from outside forces, shifted from autonomy to open separatism, closed its borders and did not react to the demands of central government and the public. As a result, the separatist-oriented government ignored Georgian legislation, seized the autonomous Republic’s CAP customs and taxation systems and refused to cooperate with the central financial institutions. Corruption, authoritarianism and dictatorship flourished in the Republic. The people terrorised by the government did not dare to criticise it. They even participated in meetings and rallies organised by the government. For instance, when Shevardnadze smelt danger in November 2003, he applied to Aslan Abashidze, the Adjarian leader, for help. The latter sent his clan members and terrorised people to Tbilisi to hamper the development of processes there. However, shortly after these people found out about the demands of the protesters in Tbilisi, they returned home.

All private companies or state institutions in the republic, as well as their property, were controlled, misappropriated and embezzled by the Adjarian officials. All of the elections held in Adjara across a 14-year period have been rigged. The election results were always fixed by the government beforehand and they resembled the results (i.e. 99.99%) of communist rule. The Adjarian government did not allow local or foreign watchdog organisations to monitor the elections. This was reflected in the reports of international organisations (ISFED, OSCE, etc).

These processes came to their logical conclusion during the events of March 2004, when the local government fled Georgia and found shelter in a neighbouring country. The Parliament of Georgia approved a new law “*On the Autonomy of Adjara*”, which has balanced autonomous and central governments. This was acceptable to both sides.

Numerous criminal proceedings have been initiated against the Autonomous Republic’s leader and his clan members, providing evidence that of misappropriation and embezzlement of property on a large scale. Indeed many American magnates would be envious of Abashidze’s riches.

3.e. Reforming dysfunctional institutions

The government intends to continue the reform of the judiciary which was suspended under the former government. Two steps considered necessary are the introduction a jury system and a reduction in the number of courts.

Government is actively engaged in reforming the public sector. Its main ideas are outlined below. First steps towards reform were taken through improving wage incentives by increasing the salaries of the most important public servants, such as policemen and tax collectors. The Ministry of Justice is also working on a draft of Code of Ethics.

As a result of reforms, the institutions listed below have gained new anti-corruption functions and they make up the government’s anti-corruption system.

The Georgian Prosecutor's Office

The investigation department of the Prosecutor's Office investigates corruption and other crimes committed by high-ranking officials. Under the decree of the Prosecutor-General dated 10 October 2003, a Special Service for Criminal Persecution against the Legalisation of Unlawful Income was created within the Prosecutor-General's Office.

The Public Officials' Finance and Property Declaration Bureau

Under the law "*On conflicts of interest and corruption in the civil service*", the Public Officials' Finance and Property Declaration Bureau has been created to accept declarations reflecting property and the financial state of officials, to ensure their transparency and provide supervision for their timely submission and to fulfil other duties stipulated by effective legislation.

According to the decision made this year, the agency has been subordinated within the Ministry of Justice.

Georgia's Chamber of Control

Under the Georgian Constitution, the Chamber of Control supervises expenditure of state funds and other material values.

At this stage special amendments have been made to the law "*On the Chamber of Control*". According to these amendments, the chairman of the Chamber of Control will be selected and appointed by parliament. These amendments will allow the parliament to supervise the cabinet's activity. It also plans to transform the Chamber of Control into the State Audit Office, which would have the additional function of carrying out a performance audit.

General inspectorates

General inspectorates have been created within the majority of ministries as well as within the Prosecutor-General's Office. The duties of general inspectorates are to supervise the fulfilment of requirements of the law by civil servants, to carry out the duties of an internal auditor, to review citizens' applications and complaints, and to act on confirmed cases of abuse in an appropriate manner (i.e. to apply to the head of the institution regarding an administrative offence by an official and to send relevant documents to the law enforcement bodies).

It will be interesting to take a closer look at the activity of a new institution: the General Inspectorate of the Ministry of Justice. This General Inspectorate has been operating since 2002. It only started fulfilling its duties in an appropriate manner, however, from 2004. According to its activity report, more than 150 people have been dismissed this year and more than 300 people have been punished for administrative offences. Citizens can contact the General Inspection Office via a hotline and inform it of abuses. More than 500 people have used this service.

Ombudsman

The ombudsman of Georgia supervises the protection of human rights and freedom in the territory of Georgia, exposes cases of abuse and facilitates the restoration of infringed rights.

An increase of the ombudsman's functions is anticipated. The introduction of posts of ombudsmen for different branches is also planned. This process is already underway (e.g. structural units have been created under the power and communication national regulatory commissions, headed up by people recognised for their firm principles).

Steps taken towards ensuring civil servants' adequate remuneration

The Georgian Parliament approved the law "*On the Development and Reform Fund*" on January 14 2004. , The Development and Reform Fund is a public law which seeks to provide civil servants with adequate remuneration.

For reasons of transparency certain categories of civil servants approved by the Fund's Board of Trustees receive their salaries through funds transferred directly to their personal accounts. This allows civil servants to receive the minimum remuneration required for them to work without engaging in corrupt deals. This rule was introduced in February 2004.

The government is providing transitional salary increases through two funds, the UNDP- administered Governance Reform Program, and the government-administered Development and Reform Fund. Both of them are managed with full transparency and are supported by the Open Society Institute, UNDP and major private donors.

Salaries

The new government of Georgia announced that it needed to radically increase the salaries of state officials at the beginning of 2004. Governmental leaders had raised the issue of an increase in minimum wages under the former government.

As a result of initial measures, the salaries of the most important officials within ministries, agencies, the police, and the tax and customs departments, have been increased.

At the same time, it is worth mentioning that pay rises covered only one segment of officials. Most of them still have low salaries on which it is impossible to live. It should also be noted that a government-initiated decision to pay increased salaries distorts the labour market. Under such conditions the labour market is unable to assess the real value of labour. It would be more useful to introduce a system of hiring which would allow for the application of market rules for hiring on a contractual basis (with an indication of salary amount and terms).

3.f. Financing reform

The successful results of reforms in tax collection discussed above prove that the government has sufficient authority and strong enough resolve to implement effective policies in the area of tax mobilisation. Supremacy of law, however, should always be considered more important than pushing through policy (see section 5 above). All cases which refer to the payment of taxes or cover any other debts owed to the government by illegal means should be excluded.

The proper registration of liabilities by the state and improvement of the payment system are also significant areas for reform and there has been some progress. However, this process is developing slowly, which is unsatisfactory. According to the website of the Ministry of Finance of Georgia (www.mof.ge), the internal debts of Georgia total GEL 1.5 billion. While it is good that the Ministry has finally confirmed this, it is not known how these debts were calculated or who the creditors are. There are no rules on the state's internal debt servicing; only debts confirmed by the Ministry are considered to be liabilities.

The state budget and the performance of the Treasury are generally unregulated:

- Budget preparation procedures are insufficiently transparent. The participation of local governments in the process of budget preparation is virtually prohibited until the state budget is approved.
- The possibility of monitoring budget requirements depends upon the goodwill of the financial administration.
- Budget expenditures are incurred under the supervision of the Ministry of Finance without any rules or procedures.
- Systems of income and expenditure and performance reporting do not exist. There is no system of accountability.
- Despite the State Treasury having operated for eight years, there has still not been legislation passed, which would regulate financial relations, circulation of funds, etc. The Tax Code is full of loopholes that could be exploited (e.g. double meanings of certain articles, the possibility of subjective approaches).
- The law on the rescheduling of tax liabilities allows for some already bankrupt businesses to be artificially kept afloat, which tempts others to follow suit.
- Budgetary system laws should be amended. New laws on the treasury and on the servicing of internal debts must be adopted. The law on the rescheduling of tax liabilities must be abrogated.

The government has started doing its utmost to increase budgetary revenues. Tax and customs officials have been denounced and arrested (it is interesting to note that the president did not shield the former head of the customs department, his former classmate) and the government is committed to pursuing an anti-smuggling initiative. Traditional smuggling seats have been eliminated, which has already resulted in increased budget revenues and the restoration of the rule of law and justice within markets. It was impossible to achieve these goals in the past, as smuggled goods exceeded by far the number of legally imported goods. Nearly all sources of smuggling under Georgian jurisdiction have

been eliminated, and the myth of the impossibility of eradicating smuggling, spread by Shevardnadze's government, has been dispelled.

The Ministry of Finance

A financial police division has been created within the Ministry of Finance. Its main tasks are as follows:

- Preventive activity in the sphere of economic crimes;
- Detection and investigation of economic crimes;
- Prevention, detection and relevant action taken in response to administrative offences in the financial and economic spheres;
- Prevention, suppression and detection of offences and corrupt deals by officials in the financial and economic spheres.

Financial Police

According to the amendments made to the law *"On Financial Police"* and the Criminal Procedure Code, the functions of investigating and detecting crimes committed in the economic sphere have been transferred from various agencies to the Financial Police. The concentration of the functions of detection of economic crimes (e.g. tax evasion, smuggling, etc.) and investigation in a single agency (in the past this function was fulfilled by the Ministry of Interior, the Ministry of Security, Tax and Customs Departments) will improve coordination in the fight against these crimes.

Changes in taxation and budgetary procedures

The Georgian Parliament made changes to the Tax and Customs Codes on 24 February 2004. According to these changes, a mechanism of tax refunds has been defined. This issue remained problematic for a long time and it was a common source of corruption.

Under resolution #3 of the Georgian Government dated 13 March 2004 on *"Registration of contributions from the state, Abkhazian and Adjarian Autonomous Republics and other territorial unit budgets by the State Treasury, carrying out of settlements and refunding of taxes paid in excess or by mistake"*, a joint account of budgetary revenues was introduced on 5 April 2004, which has improved the registration of budget revenues and expenditures.

The Georgian law *"On making amendments and addenda to the law 'On the Georgian budgetary system'"* approved on February 24 2004 has defined new procedures for budget preparation, consideration and adoption.

A new tax code is being formulated at present. The government has promised that this will come into force in 2005.

The Georgian Financial Monitoring Service

The main task of the Financial Monitoring Service (at the National Bank of Georgia) is to fight against the legalisation of illegal income and the financing of terrorism. The Financial Monitoring Service is

notified of corrupt deals, analyses them and transfers relevant documents to the Prosecutor General's office in case doubt arises that these deals legitimise illegal incomes or finance terrorism. New, stricter, rules for the Financial Monitoring Service have become effective since September 1, 2004.

Changes towards the suppression of unlawful income legalisation

The Georgian Parliament ratified the Strasburg Convention of 8 November 1990 on "*Laundering, search, seizure and confiscation of the proceeds from crime*", on 17 February 2004.

On 25 February 2004 the Georgian Parliament approved the law of Georgia "*On facilitation of the oppression of unlawful income legalisation*".

These amendments will allow the Georgian Financial Monitoring Service to make efforts to block the legalisation of illegal income more effective.

The State Procurement Agency

According to the law "*On State Procurement*", the main duties of the State Procurement Agency are as follows:

- Permanent analysis of the situation prevailing in state procurement on the grounds of invoices received from purchaser organisations;
- Drawing up of normative bases and standard tender documentation regulating state procurement;
- Formation of a common information base on state procurement, and facilitation of the introduction of modern information and communication technologies for state procurement;
- Administrative proceeding of disputes emerged during the process of state procurement;
- Supervision of adherence to laws in state procurement and raising the issue of administrative liability among purchaser organisation officials.

The government intends to transform this agency into an independent institution, which would guarantee impartiality and transparency. A group of independent experts, the activity of which has been financed by the "Open Society-Georgia" Foundation, has issued a new draft on state procurement which is currently being discussed.

3.g. Dealing with the past

Amnesty

The government published a draft tax amnesty at the beginning of 2004. The draft sought to grant pardon to businessmen for a certain amount of hidden taxes and also launched the process of rescheduling the payment of taxes that exceeded GEL 1 million. Its aim was to create new affiliations with taxpayers and ensure they interacted with legal institutions and to.

The draft was finalised in March, the government intended to approve it by the end of June, and to make it effective from July. However, the draft has not been yet approved for various reasons one of which being the possibility that new corrupt institutions are emerging. The draft was also criticised for being insufficiently flexible and fair

4. Conclusions

4.a. Current overview: achievements and obstacles

The example of present-day Georgia is an important one for the discussion of anti-corruption measures for countries in transition. In spite of considerable efforts on the part of international organisations there is still much to do to combat corruption. Georgia's experience should encourage other nations to take decisive steps.

The wholehearted commitment of the Georgian government in eradicating corruption has been expressed in almost all types of actions implemented on the recommendation of local society and foreign experts. Its attempts at making necessary legislative amendments, arresting well-known corrupt officials, a serious fight against corruption, the introduction of a programme for institutional reforms and large-scale anti-corruption propaganda, etc, should be especially noted.

4.b. Major reforms introduced

- Constitutional changes

The post of prime minister and the cabinet have been introduced.

- Reorganisation of the government executive

The ineffective executive government has been fully reorganised - only two types of institutions remain from the former three types of governmental institutions. The number of governmental institutions has been optimised (the number of ministries has been reduced from 18 to 15) and governance mechanisms have been improved.

- Unlawful and unjustified property

New laws have defined the prosecutor's authority to transfer unlawful and unjustified property to the state under the rule established by the administrative procedures.

- New obligations to prove the origin of officials' property

The Georgian Parliament has approved amendments to the law "*On conflicts of interest and corruption in the civil service*". According to these amendments, a person is not allowed to occupy a position until he/she submits a property declaration to the Public Officials' Finance and Property Declaration Bureau.

- Amendments and addenda to criminal procedure laws

The law has become stricter in respect to unlawful property and it has been simplified.

- Financial police

A financial police division was established for the detection of economic crimes. Investigation of crimes has been transferred from various agencies to the financial police. Concentration of the functions of detection of economic crimes (e.g. tax evasion, smuggling, etc.) and investigation in a single agency allows a serious opportunity for improving the coordination of the fight against these crimes.

- Changes in taxation and budgetary procedures

The Georgian law “*Of amendments and addenda to the law ‘On the Georgian budgetary system’*” approved on 24 February 2004 has defined new procedures for budget preparation, consideration and adoption.

- Changes to the suppression of unlawful income legalisation

The Georgian Parliament ratified the Strasburg Convention of 8 November 1990 on Laundering, search, seizure and confiscation of the proceeds from crime on February 17 2004.

On 25 February 2004 the Georgian Parliament approved the law of Georgia “*On facilitation of oppression of unlawful income legalization*”.

- Measures implemented for ensuring adequate remuneration for civil servants

The government is providing transitional salary increases through two funds, the UNDP-administered Governance Reform Programme and the government administered Development and Reform Fund. Both are managed with full transparency and are supported by the Open Society Institute, UNDP, and major private donors.

- Introduction of patrol police

The division of traffic police has been abolished at the Ministry. Its functions, and ordinary police duties, have been transferred to the patrol police, which was created this summer and initially only covering Tbilisi. Staff reduction aims to mitigate corruption pressure and increase the transparency of police activity.

- Measures implemented for the restoration of legality

Since the appointment of a new Prosecutor-General in January 2004 criminal proceedings have been initiated against more than 20 important people.

4.c. Opposition to reforms

The reforms and the fight against corruption have opponents: clans and “elites” who benefited from corruption could not accept these developments. Such people believe only in corrupt “businesses”.

This case study has discussed two examples of opposition to the reforms: the Adjarian Autonomous Republic, and, at the central level, the Ministry of Education, which has initiated radical reform of the state educational system. In both cases people involved in corrupt activities were driving forces in opposition.

4.d. Main success factors, main reform drivers

The main success factors of the reforms are as follows:

- Clear demand from the population to eradicate corrupt practices and to improve the quality of the government activities;
- An unprecedented level of trust in the government from its citizens;

- Governmental leaders' desire to launch a decisive fight against corruption, and to reduce its incidence through the implementation of radical, institutional and preventative reforms; and
- Financial and ideological support of international organisations.

4.e. Current challenges

At the moment the Georgian government is working towards perfecting its anti-corruption strategy. Conceptual documents and projects have been already been developed for the continuation of reforms. For instance, a draft tax code is one of the most topical issues at the moment, with the government hoping to adopt it by the end of November.

4.f. Other conclusions and lessons learned

Implemented policy deserves a positive assessment. Assessments made by independent sources have been presented above. According to these assessments, support of the population to reforms is rapidly increasing. The majority of the obligations assumed by the new government, which refer to the improvement of the functions of state institutions and structural changes, are being fulfilled.

These can be evaluated as successful reforms, and the catalysts for these were the public demand of the Georgian people and the political will of the new government.

4.g. Recommendations

It is worth noting certain points about the achieved success. Against the background of the success indicated above, it is difficult to begin a discussion of its problems and to make critical remarks. However, that does not mean all measures already put into practice or to be implemented in the future by the government must not be assessed critically.

Despite the government's efforts, the following topics are being actively discussed by society:

- The slow pace of decentralisation and the extreme power of the central government (the main concerns are financial administration and the police);
- Tax administration became rigorous in one direction only: - taxpayers' rights have been restricted and the rights of inspections have been increased significantly;
- Monopolisation of the political system and the excess of the executive government's authority in comparison with other branches of government, possibly enabling the government make quick decisions, but providing no support for pluralism.

An aspect of governmental officials' wages should also be raised here. It should be noted that only a certain number of officials receive increased salaries. If officials' salaries exceed a real market level, it is possible that new corrupt elements will appear (such as the corrupt 'selling' of high-salaried jobs).

The government should give serious attention to the institutional reform of the civil service to ensure accountability and efficiency in this sector.

The government should also establish clear rules and regulations for openness and transparency. One of the best solutions for this is the creation of e-governance through websites, the obligatory publication

of all legal acts and everyday reports of activities on the Internet and public access for ordinary members of the public.

The government should establish new financial responsibility acts, requiring that government and its agencies adhere to strict and clear rules of planning, budgeting, execution, monitoring and accounting for the resources spent by them.

(LOWER CASE)

1. Georgia Opinion Alert, Department of State, Washington D.C. 20520, March 5, 2004;
2. Alternative Corruption Status Report for Georgia; Prepared by Anti-Corruption NGO Coalition (12.12.2003) - Transparency International Georgia, ABA/CEELI, Save the Children, American University Transnational Crime and Corruption Center, ALPE - Association of Legal and Public Education, Association of Young Auditors of Georgia, Georgia Business Confederation, "Article 42nd" - Human Rights Protection, IRIS/Georgia, Teachers Independent Trade Union - Solidaroba;
3. Johanna Dadiani, Transparency International Georgia: Global Corruption Report 2005- Georgia;
4. Anti-Corruption Network for Transition Economies: Regional Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine - Georgia - Summary assessment and recommendations; Endorsed on 21 January 2004;
5. Anti-Corruption Network for Transition Economies: Regional Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine - Georgia - Review of Legal and Institutional Framework for Fighting Corruption, Addendum to the Summary of the Update Report and of the Discussion; Endorsed on 17 June 2004;
6. Anti-Corruption Network for Transition Economies: Regional Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine - Istanbul action Plan (Draft Summary Record); 21 January 2004;
7. Zaza Broladze: Tax Evasion - An Important Source of Illegal Income in Georgia;
8. GORBI: Corruption survey in Georgia - Second Wave; June 2002
9. Decree #95 of the President of Georgia "On Some First Place Anti-corruption Measures", March 15, 2001;
10. Compact to Promote Transparency and Combat Corruption: A New Partnership between the G8 and Georgia (Sea Island, June 10, 2004);
11. Georgia: The Government's Strategic Vision and Urgent Financing Priorities in 2004-2006; Donors' Conference, Brussels, June 16-17, 2004;
12. Lasha Topadze: Project: Economic Crime and Money Laundering; Subject: Combating Economic Crime through Increased Transparency in the Selection and Financing of State Target Programs, Tbilisi 2003;
13. Transparency International Georgia - Press Release: Transparency International outlines anti-corruption priorities for President Saakashvili, Berlin/Tbilisi, 12 January 2004;
14. Daily e-Bulletins of the Ministry of Finance of Georgia, #1 and 191
15. Vision of Structural Reforms in Financial Sphere, Report to the Donors Conference March1, 2004