

# Georgia

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*Capital:* Tbilisi  
*Population:* 4.45 million  
*GNI/capita, PPP:* US\$4,990

Source: The data above were provided by The World Bank, *World Development Indicators 2012*.

## Nations in Transit Ratings and Averaged Scores

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Electoral Process	5.25	5.25	4.75	4.75	4.50	4.75	5.25	5.25	5.00	5.00
Civil Society	4.00	3.50	3.50	3.50	3.50	3.50	3.75	3.75	3.75	3.75
Independent Media	4.00	4.00	4.25	4.25	4.00	4.25	4.25	4.25	4.25	4.25
Governance*	5.50	5.75	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	5.50	5.50	5.50	5.75	6.00	6.00	5.75	5.75
Local Democratic Governance	n/a	n/a	6.00	5.75	5.50	5.50	5.50	5.50	5.50	5.50
Judicial Framework and Independence	4.50	4.50	5.00	4.75	4.75	4.75	4.75	4.75	5.00	5.00
Corruption	5.75	6.00	5.75	5.50	5.00	5.00	5.00	5.00	4.75	4.50
Democracy Score	4.83	4.83	4.96	4.86	4.68	4.79	4.93	4.93	4.86	4.82

\* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

## EXECUTIVE SUMMARY

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Georgia was one of the first Soviet republics to declare independence and introduce a multiparty system in 1990. However, the country's rapid political emancipation coupled with slow institutionalization led to a number of serious problems. In 2004, the new government launched profound reforms aimed at modernizing the state, the economy, and society. In some respects, these reforms tangibly increased the capabilities of the Georgian state, resulting in better public protection and services. In other areas, such as democratic participation and conflict resolution, the new administration has failed to adequately address the complexities of the issues. Russia and Georgia fought a war in 2008 that ended in occupation and formal recognition of independence of South Ossetia and Abkhazia by Russia.

The political crisis that began in 2007 calmed considerably in 2010. However, tensions rose again in May of 2011, when several days of antigovernment demonstrations took place in Tbilisi, ending in clashes with police. The authorities' crackdown on protesters sparked international condemnation and mildly tainted President Mikheil Saakashvili's image, though he still remains quite popular. Presidential elections scheduled for 2013 will determine his successor, but political alternatives are few as the opposition remains fragmented by infighting and unprepared to seriously challenge the ruling party. Several constitutional amendments that were adopted in 2010 will come into effect in 2012–13, transforming Georgia's political system from a semipresidential to a parliamentary model. Despite facing several major crises, the current government has made exceptional efforts to combat corruption, nearly eradicating it in lower-level forms. Significant progress has been made in increasing the transparency of state institutions and new technologies have been implemented to minimize bureaucracy and improve access to information.

**National Democratic Governance.** The May riots organized by former speaker of the parliament Nino Burjanadze ended in clashes with police. While the organizers of the rally reportedly provoked violent confrontations, security forces were also criticized for acting outside the law and exercising excessive force. Four people died in connection with the demonstrations. In the second half of 2011, the Georgian billionaire Bidzina Ivanishvili announced his entrance into politics, which proved controversial. Some members of the opposition welcomed him as a viable alternative candidate, but the government viewed his political activism with suspicion and used bureaucratic formalities, such as stripping him of his citizenship, to hinder his legal participation in politics. *Despite several challenges, the situation of national democratic governance remained mostly stable during 2011, leaving the rating unchanged at 5.75.*

**Electoral Process.** A working group consisting of ruling party and several opposition parties continued a dialogue on electoral issues through the first half of 2011. Negotiations halted in March, however, when the ruling party refused to discuss the opposition's proposals. In June, the ruling party returned to the negotiation table with its own proposals, which were accepted by two opposition parties, and an agreement on the transformation of the electoral system was reached. The parliament adopted the new electoral code in December, which the Venice Commission hailed as a step forward. The impact of the new code cannot fully be assessed until the parliamentary and presidential elections scheduled for 2012–13 have taken place. *Therefore, the electoral process rating remains unchanged at 5.00.*

**Civil Society.** The influence of civil society on policy formulation and implementation remains weak. Sources for local funding are still limited; in terms of access to international funding and networking, large and established nongovernmental organizations (NGOs) are better positioned than new or less experienced organizations. In 2011 the Georgian parliament passed amendments to the Law on Grants, allowing ministries to issue grants directly to NGOs as well as individuals. As the results of these changes have not yet materialized, *Georgia's civil society rating remains unchanged at 3.75.*

**Independent Media.** Parliament adopted amendments to the Law on Broadcasting banning broadcast media ownership by offshore-registered firms. The legislation marks an important step towards greater transparency in media ownership and financing, since broadcasters must also submit information about funding sources to the Georgian National Communications Commission (GNCC). A recent survey released by the GNCC revealed that only a minority of respondents prefer news and analytical programming over entertainment-based shows. The results stirred controversy about the future of news and analytical programming, since the law requires the GNCC to use survey results to shape its priorities for issuing broadcast licenses. *Georgia's independent media rating remains unchanged at 4.25.*

**Local Democratic Governance.** New amendments to the constitution adopted in 2010 entered into force in January 2011, establishing a separate chapter on local self-governance. The new chapter sets and defines some institutional guarantees for the independence of local governance. However, the ruling party's monopoly on power still diminishes political competition at regional and local levels. Local authorities depend on funding from the central government and their activities are very often dictated by regional governors, who are appointed by the central government. *Georgia's local democratic governance rating remains unchanged at 5.50.*

**Judicial Framework and Independence.** The justice system suffers from inconsistencies in interpretation and enforcement of legislation as well as poor conditions in penitentiary and detention facilities. Confidence in the court system is slowly improving with 53 percent of respondents trusting the system in 2011 compared to

22 percent in 2007. Courts are better equipped and funded and generally perceived as less corrupt. The court system handles civil law cases with greater independence, but the handling of many criminal cases is still influenced by the prosecutor's office. The rate of acquittals remains extremely low, though this showed signs of improving in 2011. *Georgia's judicial framework and independence rating remains unchanged at 5.00.*

**Corruption.** The fight against corruption continued to be a high priority of the government. Low-level corruption has been practically eradicated. The government pursues policies that limit bureaucratic regulations and requirements, targeting existing opportunities for corruption. New technologies and services have been increasingly incorporated to improve access to and transparency of public services. Unofficial payments in public services now occur far less frequently in Georgia than in other former Soviet states or even new European Union member countries. The government's consistent anticorruption efforts since 2003 have yielded extraordinary results and are proof of its strong political will to eradicate corruption. *For this reason, Georgia's corruption rating improves from 4.75 to 4.50.*

**Outlook 2012.** In the coming year Georgia will enter another election cycle, with parliamentary elections in 2012, followed by presidential elections in 2013 and local elections in 2014. The main challenge for Georgia's democratic governance will be ensuring that elections are fair and transparent. Improvement in media standards and the impartiality of the judiciary are necessary preconditions for guaranteeing an adequate election environment. President Saakashvili will end his second term in 2013, making way for the transition of power. The upcoming election cycle will be an important test for Georgia's democracy both in terms of stability and efficiency.

# MAIN REPORT

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## National Democratic Governance

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
n/a	n/a	5.50	5.50	5.50	5.75	6.00	6.00	5.75	5.75

In 2010, the Georgian parliament adopted a revised constitution that will shift the country's political system from a semipresidential to a parliamentary model during the 2012 parliamentary and 2013 presidential elections. The shift will increase the role of parliament as well as the importance of parliamentary elections, which in the past have been overshadowed by presidential elections. The implementation of the new system's framework will be tested in the upcoming elections and present a major challenge for Georgia's political system. Although the asymmetrical political landscape—with its strong ruling party and weak opposition—has allowed for the smooth passage of many reforms since 2004, it has prevented the other branches of the government from developing into effective checks and balances. As a result, the executive has retained its dominance over the legislative and judicial branches, and the strength of Georgia's institutional framework is not equaled by its powers of implementation.

Campaigning for the parliamentary elections will not intensify until spring 2012, but already in the second half of 2011 the political landscape showed signs of significant reorganization. In October, multibillionaire Bidzina Ivanishvili, who launched a successful business career in Russia in the 1990s, announced his decision to enter politics, establishing the political movement “Georgian Dream” in December. The move surprised many, as Ivanishvili had avoided the political and public spotlight since returning to Georgia almost a decade ago, engaging mostly in philanthropic activities. Several oppositional parties welcomed his entrance into politics, seeing it as an opportunity to re-launch their own campaigns.

Regardless of the reasons behind Ivanishvili's decision to enter politics, his emergence as a political actor may have a significant impact on the political power distribution of a government, which until recently had no powerful political challengers. Ivanishvili's financial resources, which amount to more than the state's 2012 revenues (GEL 6.6 billion or US\$4 billion), give him a significant advantage over most candidates. The government's first reaction to Ivanishvili's emergence in politics ranged from apathetic to hostile. Some leading figures, including President Mikheil Saakashvili, ignored Ivanishvili's statements, while other representatives from the ruling party criticized his political immaturity or drew attention to his Russian connections.<sup>1</sup> When Ivanishvili publicly declared that he was in possession of French and Russian passports (stating, in the same breath, his intention to relinquish them), the Georgian government quickly used the opportunity to strip him and his wife of their Georgian citizenship, as Georgian law prohibits dual

citizenship. Without Georgian citizenship, Ivanishvili was prohibited from engaging in Georgian politics.<sup>2</sup> Ivanishvili has since renounced his Russian citizenship and is seeking to regain his Georgian citizenship through naturalization. The National Bank of Georgia also investigated the billionaire's bank, Qartu, on allegations of money-laundering, seizing one of its cash-in-transit vehicles as evidence. At the end of the year, the investigation was still ongoing.

The first half of 2011 saw major political events in the form of street demonstrations organized by former speaker of the parliament Nino Burjanadze. Over the course of a few days in May protestors picketed the building of the Georgian Public Broadcaster, moving towards the parliament building on the eve of the planned Independence Day military parade on 26 May. While the organizers of the protest clearly tried to provoke violent confrontation with security forces, the riot police were also implicated in the use of excessive force as they broke up the demonstration.<sup>3</sup> Four people died in connection with the 26 May events. One police officer and one protester were hit by the protest organizers' motorcade when they were fleeing the site of the demonstration.<sup>4</sup> Two more bodies were later found near the scene of the demonstration on the roof of a shop. According to an official statement, they died of electrocution when they touched the live rooftop cables while trying to escape riot police.<sup>5</sup> The Georgian Young Lawyer's Association (GYLA) challenged this explanation on the basis of a UK forensic firm's facial comparison of news agency photos. The results suggest that the victims had been in police custody at the time of their deaths because one of the victims appears in a photo of a group of arrestees. Escaping police custody between his arrest and the time of his death would have been nearly impossible. However, the Ministry of Internal Affairs denied allegations of foul play and released its own photos and video statement of the man depicted in the press photo, claiming that the person shown among arrested protesters was alive.<sup>6</sup> Other major opposition parties did not support the May protests, deciding rather to engage in negotiations with the ruling party on improving electoral legislation.

The Geneva talks on conflict-related issues continued throughout the year, without resulting in significant developments. However, in November 2011 Georgia and Russia both accepted the Swiss proposal of hiring a private company to observe the movement of goods between Russia and the *de facto* independent regions of Abkhazia and South Ossetia, which had been a major concern for Georgia. The deal was significant for Russia, as well, because it gave the green light for its continued accession to the World Trade Organization. Other topics of discussion between Georgian and Russian governments during the year included deployment of Tochka-U rockets in South Ossetia as well as the Russian Duma's ratification of military treaties with Abkhazia and South Ossetia, which allow Russia to operate military bases there for the next 49 years.<sup>7</sup>

## Electoral Process

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
5.25	5.25	4.75	4.75	4.50	4.75	5.25	5.25	5.00	5.00

While no elections took place in Georgia in 2011, a new electoral code adopted in December introduced important improvements to the electoral system. Public opinion surveys show that electoral reforms are considered among the most important reforms for Georgia, along with agriculture, education, taxation, and judicial reforms.<sup>8</sup> In principle, the new legislation enables fair and equal campaigning, balanced pooling, transparent tabulation, and generally introduces an institutional framework for free and competitive elections. The degree to which the changes are implemented will not be visible until the fall 2012 parliamentary vote. Further problems also remain concerning the low level of trust towards the electoral process and administration.

The code adopted in December is the result of a two-year negotiation, interrupted twice by political stalemate. A working group with representatives from the ruling party and several opposition parties first convened to discuss electoral reform in 2009, but was unable to reach consensus and decided to resume dialogue during the second half of 2010. Negotiations froze once more in March 2011 when the ruling party refused to discuss the opposition's draft proposals, which they likened to an ultimatum. In June, the ruling party returned to the negotiation table with its own initiatives. Six out of eight opposition parties represented in the working group rejected the plan as insufficient for improving the electoral environment, but signatures from the remaining two—along with some additional, smaller parties—were enough to approve the main principles of the ruling party's plan.<sup>9</sup> These principles made up the basis for the new code.

Under the new code, the number of seats in parliament remains unchanged at 150. Seventy-three parliament members are to be elected in single mandate constituencies, and 77 through party lists—previously, 75 members were elected through each method. Unfortunately, the issue of disproportionality between single-mandate constituencies was not addressed, even though this was one of the major comments from the Venice Commission concerning the draft code.<sup>10</sup>

One of the novelties of the code is the principle of distributing mandates according to the party list. Any party or political bloc will gain at least 6 seats in parliament if it clears the 5 percent threshold, even if the actual votes translate into fewer mandates. This means that any party or bloc will have the possibility of forming a political faction in the parliament, because according to the constitution, only six members of parliament are required to create a faction. This will increase the chances for small parties to participate more actively in the parliament, which may diversify the political landscape.

A state commission has been set up to oversee the accuracy of voter lists. The representative of the opposition New Rights Party chairs the commission, which will be required to submit lists to the Central Election Commission (CEC) before

1 August 2012. After this the voter-list commission will continue to monitor the implementation of procedures for compiling the lists and will notify the CEC if they need modification. The voter list commission is composed of 21 members with membership divided equally among the ruling party, the opposition, and nongovernmental organizations (NGOs). Several opposition parties and most NGOs specializing in electoral issues refused to participate in the commission because they insisted that the Civil Registry should manage voter lists instead of the CEC. Some also felt that biometric passports should be used to improve the accuracy of voter lists.<sup>11</sup>

According to the new code, any party or political bloc clearing the 5 percent threshold can claim from the state GEL 1 million (US\$606,000) to cover its campaign expenses.<sup>12</sup> Out of this sum, GEL 300,000 (US\$181,800) must be used for political television advertisements. The code also obliges broadcasters to set equal prices on political ads for every party and bloc as well as to allocate some free airtime. As before, parties that qualify by receiving at least 4 percent of votes in previous parliamentary elections and 3 percent in previous local elections are separately funded by the state budget. In total, fourteen parties received state funding in 2011.<sup>13</sup>

The funding of political parties and blocs is regulated by new rules on political donations introduced by amendments to the Law on Political Parties adopted by parliament in December. The rules introduce several restrictions, including a ban on corporate donations, limits on overall annual party funding to 0.2 percent of GDP, and the raising of the maximum individual donation from GEL 30,000 to GEL 60,000. Party funding will be monitored by the state audit agency, the Chamber of Control. Previously, the CEC performed this function, but never exercised any effective control over party financing.<sup>14</sup> Although the Venice Commission has consistently appealed to Georgian authorities to address the issue of campaign finance, the government paid little attention to the problem until Mr. Ivanishvili transferred GEL 4.1 million to four opposition parties in November–December.<sup>15</sup> Although the transparency of party financing is important for electoral reform, the new laws have the potential of being abused as tools for regulating the activities of select political parties.

The code partially addresses the abuse of administrative resources such as the use of state property, like official vehicles and communication and other technical equipment, for campaigning purposes. Unplanned increases in state spending just before the elections have also been outlawed. Political figures such as the president, members of parliament, ministers and their deputies, members of local councils, and also governors and *gamgebeli* (heads of local administrations) are permitted to campaign while serving out their current terms. Official buildings can be used for campaigning events as long as all political actors are guaranteed equal access. An interagency task force will be created by July 2012 to prevent and respond to violations committed by public officials.

Despite some shortcomings, like the continued existence of disproportional constituencies, the Venice Commission has hailed the new electoral code as a step



forward.<sup>16</sup> It is also notable that the changes were made well in advance of the next elections, unlike many previous amendments to electoral legislation, which were often passed quite unexpectedly in the run-up to an election. However, implementation of new rules will still represent a major challenge for the election cycle in 2012.

#### Civil Society

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
4.00	3.50	3.50	3.50	3.50	3.50	3.75	3.75	3.75	3.75

Civil society in Georgia began to emerge in the late 1980s and witnessed vibrant activism in the second half of the 1990s. However, many observers have pointed to a decline in the impact of the civic sector following the departure into politics of influential civic activists who participated in the peaceful demonstrations of 2003. Although there was no decrease in the number of organizations since 2004, the influence of civil society in policy formulation is rather low. This is partially due to a reluctance of public institutions to engage in systematic public policy debates with civil society actors. Public officials often fail to see the benefit of involving a wide range of stakeholders in the policy formulation process, since non-profit organizations are often considered interest-driven and biased, and their products are seen as unprofessional. Although some NGOs press for more transparency and the increased participation of civil society, cooperation with the government is not actively sought out and most NGOs limit their involvement to watchdog activities.

Financial instability remains a major concern of Georgia's civil society organizations. International funding and partnering are available, but are monopolized by the country's most established and successful groups. Local funding is still scarce, and while business entities provide funds for charity, they refrain from funding civic activities. To improve this situation, in 2011 parliament passed several amendments to the law on grants, allowing ministries to issue grants directly to universities, NGOs, and individuals.<sup>17</sup> Previously, ministries were prohibited from issuing direct grants. The amendments, which will go into effect in 2012, require grants to be reflected in the ministries' budgets. Ministries will be allowed to set up their own procedures for monitoring the awards process.

In 2011, civil society organizations continued to work in coalitions to address various social and political issues. For example, Transparency International Georgia, the International Society for Fair Elections and Democracy, and the Georgian Young Lawyers' Association were actively engaged in consultations and debates about election legislation and issued several assessments and statements. Eleven organizations participated in the establishment of a Media Advocacy Group to coordinate efforts related to transparency of media ownership, simplified procedures for issuing licenses, and protection of journalists' rights.

The influence of the Georgian Orthodox Church on society and politics remains high. A controversial 2002 concordat guarantees the church's special role

and status in the country, and church leadership is usually consulted on major decisions affecting religious groups. In July 2011, parliament acted without the church's approval by passing amendments to the civil code that enable religious groups to register as legal entities, which solved a longtime problem regarding the undefined status of religious minorities in Georgia. Georgian Orthodox leadership called the amendments dangerous, and insisted the Church should have been consulted before the law was changed. Led by Georgian Orthodox clerics, thousands gathered in Tbilisi for a two-day protest, one of the largest in years.<sup>18</sup> Nevertheless, President Saakashvili signed the bill and highlighted its importance in guaranteeing equal rights for all religious minorities in Georgia.<sup>19</sup> Four religious minority groups have used the amendment to register for legal status since July.

Protection of labor rights remains low and the labor code has often been criticized for not sufficiently protecting the rights of employees. The role of trade unions remains marginal, even though the Georgian Trade Union Confederation (GTUC) lists about 20 member organizations on its webpage.<sup>20</sup> Limited impact of unions can be attributed to Soviet-era antipathy towards unions as well as a less developed culture of associations and organized labor. In practice, organized labor activities are rare and do not get adequate attention from state authorities. One exception to this rule occurred in February 2011, when the third deadly explosion in one year at the Tkibuli mine in west Georgia led to a strike of miners spearheaded by the Metallurgical, Mining, and Chemical Industry Workers' Trade Union. The mining company agreed to safety improvements and pay increases tagged to inflation rates.<sup>21</sup> Other union actions during the year were less successful. In September, 150 workers at the Hercules metallurgical plant in Kutaisi set up a strike over poor working conditions, which resulted in the arrest of thirty participants. The majority were released shortly afterwards, but police arrested three participants a second time for "disobeying police orders." The GTUC and the International Trade Union Confederation harshly criticized the repressive actions of the authorities in shutting down the strike and the negligence of the government in mediating the dispute.<sup>22</sup>

#### Independent Media

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
4.00	4.00	4.25	4.25	4.00	4.25	4.25	4.25	4.25	4.25

The legal framework regulating Georgia's media environment meets broad international standards. However, serious problems have always existed in the transparency of media ownership and funding sources, with many media outlets purposely registering in offshore zones to protect the confidentiality of the companies' owners. In 2011, 70 percent of the central media station Rustavi2 were still owned by the firm Degson Limited, a company registered in the Virgin Islands.<sup>23</sup>

Greater transparency of media ownership and business or political ties is critical in a country where political actors often attempt to influence the media. In April 2011, parliament adopted amendments to the Law on Broadcasting, banning broadcast media ownership by offshore registered firms. The amendments—which come into effect on January 1, 2012—require broadcasters to submit information about the source of their funding with a detailed breakdown of revenue from advertisements, sponsors and donations to the National Communications Commission (NCC). In addition, broadcasters must publish information about their owners on their webpages. Changes to the law banning government ownership of media will also affect the status of Adjara TV, which is currently the only state-run television company in Georgia, owned by the autonomous Adjara government. The parliament requires the Adjara government to develop a proposal for the privatization of the station before the changes take effect in 2012.

In November 2009, the owners of the television station Maestro (among them opposition activist Giorgi Gachechiladze) hired the management firm founded by Erosi Kitsmarishvili, one of the leaders of the opposition Georgian Party, to manage the station for a duration of three years. In November 2011, Kitsmarishvili accused the owners of Maestro of trying to void the agreement and planning to sell the station to Bidzina Ivanishvili, after the billionaire-turned-politician announced his plans to buy a television station. Journalists working at Maestro supported the owners in this conflict, claiming that Kitsmarishvili had broken into Maestro's offices and refused to allow staff to come to work.

Television dominates the media landscape, with 84 percent of Georgians watching television news daily.<sup>24</sup> Despite television's popularity as a news source, respondents consider television stations to be biased towards either the government or the opposition.<sup>25</sup> National broadcasters Rustavi2 and Imedi TV tend to favor the government, while others, Maestro and Kavkasia, demonstrate a pro-opposition orientation. The Georgian Public Broadcaster (GPB) has demonstrated a clear effort to provide balanced programming, airing several political talk shows with different anchors and formats weekly. The second channel of the GPB is open to political parties and NGOs for broadcasting their events, including press conferences, discussions, meetings, and other activities. Television stations earn a major share in total broadcast revenues. In 2010, broadcasters generated GEL 76.3 million (US\$46.2 million) in revenue with GEL 69.3 million (US\$42 million) from television stations and about GEL 7 million (US\$4.3 million) from radio stations.<sup>26</sup>

By law, the Georgian National Communications Commission (GNCC) is obliged to use survey results for defining priorities for issuing broadcast licenses. A recent survey released by the GNCC triggered controversies because it revealed that only 10.6 percent of respondents prefer news programs over entertainment programs and 3.9 percent prefer analytical programs. Organizations like Transparency International Georgia warned the commission against using the survey results as a pretext for denying broadcast licenses to stations airing news and political programming.<sup>27</sup>

In general, the rights of journalists in Georgia are protected by law, but occasionally cases emerge against reporters based on questionable charges. In July, the Ministry of Internal Affairs arrested four photojournalists working for national and international news agencies, on charges of espionage. Fifteen days after their arrest, the journalists were found guilty and released with conditional sentencing, pending approval of their plea agreements. A lawyer for some of the defendants stated that their clients had confessed while under psychological pressure during the investigation, but these claims were never officially pursued.<sup>28</sup>

#### Local Democratic Governance

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
n/a	n/a	6.00	5.75	5.50	5.50	5.50	5.50	5.50	5.50

The constitution and the Law on Local Self-Governance set and define institutional guarantees for the independence of local governments. For example, the law requires the central government to consult with local entities before the latter may be abolished or reorganized. Amendments adopted in 2010 and in force since January 2011 establish a separate chapter defining basic principles of local governance, which provides local governments with greater financial guarantees, such as the transfer of adequate material and financial resources to local municipalities in cases where the central government delegates new responsibilities.

Georgian legislation outlines three levels of governance: national, regional, and local. The country is divided into nine regions: Samegrelo and Zemo Svaneti, Guria, Imereti, Racha-Lechkhumi and Kvemo Svaneti, Samtskhe-Djavakheti, Mtskheta-Mtianeti, Kvemo Kartli, Shida Kartli, and Kakheti. These regions have no autonomy and are governed by presidential appointees (*sakhelmtsipo rtsmunebuli*). Starting in 2013, the constitution envisages the transfer of the power of appointment so that governors will be appointed by the central government, and not by presidential decree, as is the case now.

Adjara remains the only regional entity with limited autonomy. The head of Adjara's regional government is elected by the local Supreme Council, but proposed by the president of Georgia. The president currently has extensive rights to dismiss Adjara's parliament and government, but in the new version of the constitution, effective in 2013, he will be required to seek the government's approval in advance. The autonomous republics, Abkhazia and South Ossetia, are out of the central government's control, since they were declared Russian-occupied territories by the 2008 Law on Occupied Territories.

At the level below the regions, there are currently 59 municipalities under central government control and 5 self-governing cities—Tbilisi, Batumi, Rustavi, Poti, and Kutaisi. In municipalities and cities, local and city councils (*sakrebulo*) are elected for 4-year terms. Councils appoint heads of municipalities (*gamgebeli*) and city mayors (*meri*) in self-governing cities. Heads of municipality or mayors

appoint their trustees in local communes. Local elections last took place in 2010 in all municipalities and self-governing cities. The ruling United National Movement (UNM) party controls all local councils, although the opposition increased its representation in local councils countrywide from 11 percent in 2006 to 14 percent in 2010.<sup>29</sup> The dominance of the UNM enables the ruling party to intervene in the work of local municipalities and diminish political competition at the local level. In practice, the decentralization process is dictated by the central government, which often uses decentralization as a means for transferring costs to local budgets for services previously covered by the central budget. Local authorities still depend on central fund transfers, which are frequently dictated by regional governors.

In general, the quality of local governance could be enhanced with a greater degree of citizen involvement. Local NGOs and civic groups do not fully utilize available legal tools to oversee the work of local officials. For instance, local council meetings are open to the public, but local citizens and organizations rarely attend.

#### Judicial Framework and Independence

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
4.50	4.50	5.00	4.75	4.75	4.75	4.75	4.75	5.00	5.00

Georgia's constitution and national legislation guarantee fundamental political, civil, and individual rights, which are generally respected by the state. However, the justice system remains plagued by inconsistencies in interpretation and enforcement of legislation, weak institutional organization, questionable judicial independence, poor conditions in penitentiary and detention facilities, and inadequately trained justice employees.

In institutional terms, the court system's independence from the executive branch is supported by several guarantees. State officials are legally prohibited from having any contact with judges during case hearings. Judges are appointed by the High Council of Justice, a body headed by the chairman of the Supreme Court. Budgetary allocations for the court system have increased during recent years from GEL 11 million (US\$6.6 million) in 2003 to GEL 38.5 million (US\$23.3 million) in 2011, resulting in salary increases for judges, improved court infrastructure, and better-trained staff.<sup>30</sup>

Popular perception is that the courts are free of corruption. At the same time, acquittal rates in criminal cases in Georgia remain extraordinarily low, demonstrating the judiciary's lack of independence from the prosecutor's office. Recent data indicates that this could be improving, albeit slowly. In the first nine months of 2011, 30 out of 13,359 persons (1.7 percent) involved in criminal cases at first instance courts in Georgia were acquitted.<sup>31</sup> During the same period in 2010, only 8 people were acquitted out of 19,956 (or 0.2 percent).<sup>32</sup> From January–September, 41 percent of all persons involved in criminal cases were sentenced to imprisonment, down from 46.2 percent during the same period in 2010.

Since its introduction to the Georgian justice system in 2004, the plea bargain method is increasingly used for resolving criminal cases. In the first nine months of 2011, 86.6 percent of individual cases were settled through plea bargaining, compared to 77.7 percent during the same period in 2010.<sup>33</sup> Supporters argue that plea bargaining increases the efficiency of resolving cases, saves costs related to criminal justice proceedings, and potentially prevents further overcrowding in prisons. However, many feel the growing popularity of plea bargaining is due to the low acquittal rate and a lack of public confidence in the judicial system. The plea bargaining system increases the role of the prosecutor's office and diminishes the role of courts, serving as a crutch for the failures of the justice system.<sup>34</sup>

The use of jury trials and a new criminal procedure code came into force in October 2010. So far, jury trials have only been implemented in Tbilisi. There are plans to introduce them in the regions in 2012, but they will be applied only in special criminal cases, such as aggravated murder. Lawmakers and court administrators believe that public involvement in trials will increase trust in the justice system. In a survey conducted in October–November 2011, 54 percent of those polled said they viewed the work of the court system positively, a significant increase from 2007, but still lower than the majority of Georgian public institutions. The three most positively viewed institutions are the Georgian Orthodox Church (93 percent), the army (89 percent), and the police (87 percent).<sup>35</sup>

The process of forcibly resettling hundreds of Georgian citizens displaced by war (mainly from Abkhazia) from temporary housing in Tbilisi continued in January 2011. Although the government offered alternative housing, Internally Displaced Persons (IDPs) protested because of limited job opportunities or worsened living conditions in the new dwellings, many of which were quite far from Tbilisi. During the resettlement process, several people were detained and fined. While recognizing the need to find long-term housing options for Georgia's nearly 250,000 IDPs, the public defender and other national and international organizations severely criticized the methods used during the evictions.<sup>36</sup> A total of 1,248 displaced families were evicted in two rounds of resettlement between June 2010 and February 2011.<sup>37</sup>

In a report on Georgia's human rights situation, the office of Public Defender Giorgi Tugushi named penitentiary and detention systems as a top priority in need of immediate attention. According to Transparency International, over 22,000 individuals were serving sentences in 19 facilities in 2010. The ombudsman's report noted severe overcrowding and lack of access to healthcare in detention facilities in 2011, as well as increased cases of mistreatment of inmates by prison administration. Living conditions in psychiatric institutions and childcare facilities remain grave. Several new facilities have been built since 2008, but the ombudsman emphasized that the rate of construction cannot keep up with the rate of convictions and prison sentences. He urged the government to revise its zero tolerance criminal policy.<sup>38</sup>

## Corruption

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
5.75	6.00	5.75	5.50	5.00	5.00	5.00	5.00	4.75	4.50

Since 2004, low-level corruption has practically disappeared in the area of state services. According to recent World Bank data, unofficial payments occur far less frequently in public services in Georgia than in other former Soviet states or even new EU member countries.<sup>39</sup> State agencies are providing better services, many of which are available electronically, and regulations and procedures are much more transparent. The Civil Service Bureau advertises jobs on its website and also publishes asset declarations of public servants. The government pursues policies that limit bureaucratic regulations and requirements, targeting existing opportunities for corruption. Several public service halls were opened in different regions in Georgia in 2011, offering the services of several administrative agencies in one centralized station. Electronic tax services are increasingly popular with 80 percent of all 2011 returns filed electronically.<sup>40</sup> In 2011, the government also continued trainings for civil and public sector servants, providing education on the legal right to access information and correct procedures for granting it.<sup>41</sup>

Anticorruption reform appears to have better-prepared law enforcement agencies to fight corruption. In recent years several cases have involved the arrest of high-ranking officials, showing that law enforcement agencies are able to address corruption cases even at higher levels of government bureaucracy. While anticorruption measures have produced exceptional results, some critics argue that this came at the cost of further power consolidation in the central government and a weakened system of checks and balances. In some circumstances, the implementation of anticorruption measures is unevenly applied and subject to political influence.

The year 2011 saw a controversial ending to the high-profile bribery case initiated in 2010 against two Israeli businessmen, Ron Fuchs and Zeev Frenkiel. In October 2010, the two men were arrested and jailed for allegedly bribing Georgian officials to drop the appeal of a March 2010 decision by the World Bank–affiliated International Centre for Settlement and Investment Disputes (ICSID). The original ICSID decision obliged the Georgian government to pay US\$98 million in compensation to a firm owned by Frenkiel over an oil project Georgia had expropriated in the mid-1990s.<sup>42</sup> In April 2011, Fuchs and Frenkiel were found guilty and sentenced to seven and six years in prison, respectively; both men insisted they had been entrapped by the Georgian government in an effort to stop the compensation claim.<sup>43</sup> The arrest drew considerable attention, and Israeli President Shimon Peres is said to have lobbied on Fuchs and Frenkiel's behalf. After months of debate, President Saakashvili surprised everyone by issuing a pardon for both men, one of whom was in poor health. Suspicions of other motives arose when, on the same day, the government announced it had reached a new settlement with Frenkiel's firm, with compensation now reduced to US\$37 million.<sup>44</sup>

According to the World Bank's 2012 *Doing Business* index, Georgia is among twenty countries in the world with minimal formal regulations for starting businesses, clear regulatory procedures, permits for construction and strong legal protections of property rights.<sup>45</sup> The liberalization of the labor market is a subject of discussion in Georgia–EU talks on Association and Free Trade Agreements. The EU expects Georgia to increase protections for employees and introduce other regulations and control mechanisms in areas such as food security. However, there is concern that the introduction of new regulations may increase bureaucracy at state control agencies, creating a favorable atmosphere for the reemergence of corruption in certain areas.

In 2011 a new simplified tax code came into force, designed to harmonize tax law with international best practices and EU directives. A defining feature of the new code is the creation of a tax ombudsman, who is responsible for protecting taxpayer rights. Businesses can file complaints with the tax ombudsman regarding violations of tax law caused by ambiguities in the tax code, in response to which the ombudsman has the power to ask the relevant state agency to revise its decision. The ombudsman must also submit an annual report on taxpayers' rights to the parliamentary finance and budget committees. A steady program of tax reforms has multiplied the number of registered taxpayers in Georgia from 80,000 in 2003 to 252,000 in 2010, increasing tax revenue from 12 percent to 25 percent of GDP during the same period.<sup>46</sup>

Media in Georgia are free to report on corruption issues. In 2011, the media covered sensitive issues relating to property rights violations and the sustainability of state-run programs, such as the Cheap Credit program, which provides below-market, state-subsidized loans to entrepreneurs. Several independent channels air special reports on corruption issues. Newspapers and magazines print corruption-related reports. The Investigative Journalists Association was created in 2009 and a collection of investigative reports is available on the association's webpage. In general, however, the quality of investigative reporting remains low, and in high-profile cases, media typically present only the information and interpretation provided by law enforcement agencies. International NGOs, like the Eurasia Foundation, Open Society Georgia Foundation, and the Fund for Investigative Journalism, continue to provide financial support as well as training for investigative journalists in order to address the problem.

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