I-1. Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

67

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:
There are no limits as to the goals and functions of civic organization other than traditional anti-state activities.

References:
Civil Code of Georgia

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.
YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

References:
There is no legal requirement on NGOs to disclose sources of funding.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

75

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

Comments:
There are no formal barriers, but NGOs complain more and more about the possibility of pressure from the government if they are
really committed to anti-corruption work.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze
Interview with the team of TI Georgia working on health sector reform programs.
Newspaper Alia’

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

Comments:
Georgian NGOs have a strong expertise and influence on public opinion but little or no influence on policy making. We might still consider that GYLA has some say on legal matters, and some NGOs have some influence in the health sector.

References:
HRW 2007 report on Georgia
OSGF AC report
TI 2008 reports

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.
2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

References:
There are no reports.

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

Comments:
I do not know of any case (if someone does not act under announced dictatorship) of civil society activists being detained for political reasons or because of their activities. There are always fabricated case against them, sometimes successful, sometimes not that much. In most of the cases they were not even in a court building when detained for court contempt. They were demonstrating outside the court building but still got the sentence for court contempt.

References:
Media reports on arrests of civil society activists in the fall of 2007. They were all involved with work in HR and AC fields, and were publicly accusing the government and the president's family of corruption and misuse of authority in privatization and budget spending.
Interview with Levan Gogichaishvili, activist of Egalitarian Institute, imprisoned three times.
HRW reports from 2008;
See reports of the Observatory: http://www.fidh-omct.org

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to
include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

References:
Media reports on arrests of civil society activists in the fall of 2007. They were all involved with work in HR and AC fields, and were publicly accusing the government and the president’s family of corruption and misuse of authority in privatization and budget spending.
Interview with Levan Gogichaishvili, activist of Egalitarian Institute, imprisoned three times.
HRW reports from 2008;
See reports of the Observatory: [http://www.fidh-omct.org](http://www.fidh-omct.org)

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:
There are no such reports.

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist’s work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

100

4a. In law, citizens have a right to organize into trade unions.
YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

References:
No problems have been reported as to restrictions on organizing into trade unions.

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?
5a. In law, freedom of the media is guaranteed.

YES | NO

**References:**
Constitution of Georgia, Article 19
Law on Freedom of Speech and Expression from 2004;
Criminal Code;
General Administrative Code

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

**References:**
Constitution of Georgia, Article 19
Law on Freedom of Speech and Expression from 2004;
Criminal Code;
General Administrative Code

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

100

6a. In practice, the government does not create barriers to form a print media entity.
References:
There have been no reports on barriers to form a print media.

100:
Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50:
Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0:
Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

References:
Civil Code of Georgia

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.
References:
No special license is requested.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

References:
No license is required.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

44

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

| 100 | 75 | 50 | 25 | 0 |

Comments:
All Georgian TV media with national coverage are under the effective control of the government. After Imedi TV was shut down by force, there is no independent national TV outlet in Georgia.
Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

- **100:**
  - Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

- **75:**
  - Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

- **50:**
  - Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

- **25:**
  - Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

- **0:**
  - Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

**7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.**

- **YES:**
  - In law, there is an appeal mechanism if a license is denied or revoked.

- **NO:**
  - In law, there is no appeal mechanism if a license is denied or revoked.

**References:**
- Law on Broadcasting, from December 2004, Chapter IV,
- Rules of Appeal, Civil Code

- **YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

- **NO:** A NO score is earned if there is no appeal process for broadcast media licenses.

**Comments:**
According to the Law on Broadcasting, there is a 30 day-period for obtaining a license, yet it can be extended up to six months if problems arise. As bandwidth as a scarce resource by the Communications Regulatory Commission, virtually no new license can be issued in Georgia. Several TV companies have been shut down, but no new companies have been established. Establishing a radio station and getting a license is easier and possible.
Established in 2003, it still cannot start broadcasting due to artificial barriers created by authorities, the television founder Temur Shengelia complained. The case of TV company Europe is still pending.

see at: [http://www.jamestown.org/edm/article.php?article_id=2370675](http://www.jamestown.org/edm/article.php?article_id=2370675)

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Costs vary as to the type of license that is required: for regional or national broadcasting, which frequency, etc.

References:
Law on Broadcasting.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

8a. In practice, the government does not prevent citizens from accessing content published on-line.
References:
There have been no reports about online information.

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

References:
There have been no reports on internet content restrictions.

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?
9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

**YES | NO**

**Comments:**
Law on Freedom of Speech and Expression requires accurate news reporting, but there are no sanctions or administrative measures in case of violation of this rule.

**References:**
Georgian Administrative Code;
Georgian Law on Freedom of Speech and Expression, arts. 52 and 54

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

**100 | 75 | 50 | 25 | 0**

**Comments:**
The question is irrelevant for the Georgian TV context — as all national TV channels are controlled by the government there is a direct control of the entire media. Journalists recognize that there are lists of issues that shall never be reported on, as well as lists of people never to be interviewed. The situation is different in print media, where stories on all topics are published.

**References:**
Interviews with Journalists of TV company MZE.
Recently TV MZE information program was shut down and forced off the air.

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-
term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:
Print media has little influence in Georgia, due to small printing volume and limited distribution. Thus TV is really what matters and here we have full control by the government.

References:
There are no reports on such restrictions in print media. National TV and Radio are fully controlled by the government, with all the consequences of content control.

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

15

10a. In law, print media companies are required to publicly disclose their ownership.

YES | NO

Comments:
Law was recently changed and this information [of ownership] does not appear in public papers anymore. However this story is not finished yet, as there is a case pending before the constitutional court challenging its constitutionality. So, we should wait for the end of proceedings.
YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

YES | NO

Comments:
Law was recently changed and this information [of ownership] does not appear in public papers anymore. However this story is not finished yet, as there is a case pending before the constitutional court challenging its constitutionality. So, we should wait for the end of proceedings.

References:
Civil Code of Georgia;
Law on Entrepreneurship

YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:
There is no formal journalistic code of conduct or any document on professional practices of journalists and editors that Georgian media adhere to. Selling stories, being politically corrupt or unprofessional are common problems.

References:
Freedom House 2008 report

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.
Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

Editors and journalists are widely known to sell favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

In practice, during the most recent election, political parties or independent candidates received fair media coverage.

By all assessments (domestic and international), media coverage was biased during the last two elections, in January and May 2008. Political corruption was present on both sides. All national TV and radio shows were dominated by the presence of the governmental candidates, while coverage of the opposition was mostly negative. The same was true for the Tbilisi-based TV Kavkasia, a small opposition station that ran a very positive coverage of the opposition campaign.

All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

In practice, political parties and candidates have equitable access to state-owned media outlets.

By all assessments (domestic and international), media coverage was biased during the last two elections, in January and May
2008. Political corruption was present on both sides. All national TV and radio shows were dominated by the presence of the governmental candidates, while coverage of the opposition was mostly negative. The same was true for the Tbilisi-based TV Kavkasia, a small opposition station that ran a very positive coverage of the opposition campaign.

References:
OSCE report on the 2008 elections;
NDI reports on the 2008 elections;

<table>
<thead>
<tr>
<th>100:</th>
<th>The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.</th>
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<td>75:</td>
<td>The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.</td>
</tr>
<tr>
<td>50:</td>
<td>The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.</td>
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11. Are journalists safe when investigating corruption?

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

References:
There have been no media reports.

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist’s work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned” is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.
Comments:
There were many such cases, especially in the regions. There were more than a dozen cases reported of physical abuse over journalists all over the country, for reporting on corruption, or otherwise abuse of power by public officials.

References:
See reports of Freedom House and HRW on the 2007 media situation in Georgia
See report on violence against media, released by the Republican Party of Georgia, at http://www.republicans.ge

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

References:
There have been no media reports.

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual’s work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

68
I-3. Public Access to Information

12. Do citizens have a legal right of access to information?
12a. In law, citizens have a right of access to government information and basic government records.

| YES | NO |

References:
Constitution of Georgia, Article 24
General Administrative Code of Georgia, Chapter III

**YES:** A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**NO:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

| YES | NO |

References:
Constitution of Georgia, Article 24
General Administrative Code of Georgia, Chapter III
Code of Administrative Procedure

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**NO:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

| YES | NO |

References:
Constitution of Georgia, Article 24
General Administrative Code of Georgia, Chapter III
Code of Administrative Procedure
YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

60

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Legally all documents have to be released immediately or if there is a need for compilation the agency might ask for 10 days. In reality, governmental agencies always use the 10-day period, and normally it takes more than a month to get the necessary information. At the same time, information is usually incomplete, so journalists, NGO representatives or ordinary citizens need further inquiries and appeals in order to get full access. Year after year the situation tends to worsen.

References:
see GYLA Freedom of information reports at http://www.gyla.ge/foi
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0
References:
There have been no media or other reports on the abuse of this right. Information is free, but there are photocopying costs.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Having administrative procedures resolved in a timely and legal manner happens rarely. High ranking officials may deny people the institutional right to appeal. Winning a case against the state or a public official in Georgian courts is almost impossible.

References:
see GYLA Freedom of information reports at http://www.gyla.ge/foi
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0
References:
There have been no reports on misuse of this power. Costs are rather low and limited to photocopying.

- **100**: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

- **75**: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

- **50**: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

- **25**: In practice, the government gives reasons for denying an information request.

- **0**: The government almost never bothers to explain the reasons for denial. The responses are rather similar: Information is secret due to public necessity. There is usually no explanation as to any particular reasoning.

Comments:
Except for Public Defender’s requests, the government almost never bothers to explain the reasons for denial. The responses are rather similar: Information is secret due to public necessity. There is usually no explanation as to any particular reasoning.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze
Interview with Public Defender Sozar Subari

- **100**: The government always discloses to the requestor the specific, formal reasons for denying information requests.

- **75**: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

- **50**: The government does not regularly give reasons for denying an information request to the requestor.
14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

References:
Constitution of Georgia
Election Code of Georgia

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:
There is fixed term for all electoral offices. However, no law guarantees any particular timing for elections; this is now at the discretion of the president.

References:
Constitution of Georgia
Election Code of Georgia

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

67
15a. In practice, all adult citizens can vote.

Comments:
All citizens are eligible to vote. However, due to the problems with electoral lists, many citizens are regularly deprived of that right.

References:
OSCE election reports on Georgia since 2003.
Council of Europe, US State department, HRW reports about the inaccuracies of voter lists in Georgia

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

Comments:
Problems mainly arise while counting and due to the extensive use of so-called Carousel voting.

References:
OSCE Georgia election report from the 2008 presidential and parliamentary elections.
IFES election report from the 2008 presidential elections.

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.
15c. In practice, elections are held according to a regular schedule.

Comments:
There was a violation of the constitutional procedure while changing it, when in December 2006 parliament prolonged its term of office by nine months. It was not allowed by our constitution, the procedure of amendment-making was violated and it goes against any sense of democracy to prolong your own term in office. At the same time it was in contradiction of the essence of a question. By this decision parliament has violated the regular schedule of elections.

There were also two extraordinary elections held in 2008. For the last 5 years there was no election conducted in Georgia according to the schedule. Previous presidential and parliamentary elections in 2004 both were extraordinary, and both elections in 2008 were extraordinary.

References:
Multiple media reports about the abuse of power by the president of Georgia on rescheduling parliamentary elections, in violation of the requirements of the constitution.

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

80

16a. In law, all citizens have a right to form political parties.

References:
Law on political parties
Constitution of Georgia
YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

References:
Constitution of Georgia
Unified Election Code

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

References:
There have not been any cases of any restrictions to the establishment of a political party.

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.
16d. In practice, all citizens can run for political office.

References:
There have been no reports on any restrictions.

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

Comments:
The ruling party has a constitutional majority in Parliament, and no opposition force has any influence on any policy decision. There is no social democratic party in Georgia at all. It does not exist. If by the social democratic party, it is meant the labor party (ideologically that is similar) then they have 6 members in parliament but they refused to participate in the work of parliament and have never attended any session. The major oppositional coalition that won second place on the elections also refused participation and canceled their seats in parliament. The ruling party has more MPs than needed for constitutional majority, excluding any need for consultation or work with the opposition. There are some MPs who call themselves as an opposition but they have neither influence nor voice in the work of legislator, due to low number and even lower voice of resistance.

References:
This is a fact that does not require any particular studies.

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition’s ability to force votes or publicly debate certain topics may be limited.
II-2. Election Integrity

18. Is the election monitoring agency effective?

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18a. In law, the agency or set of agencies/entities is protected from political interference.

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Comments:
There is no independent agency. The Central Election Commission is composed of members appointed by political parties. OSCE, while assessing Georgian elections, wrote that members of CEC voted according to party lines rather than according to the law. Monitoring is conducted only by the NGOs and international organizations that are politically neutral in most of the cases.

References:
- Election Code of Georgia
- OSCE election report 2008

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

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Comments:
One of the main concerns in Georgia is exactly the composition of CEC, which consists of party appointed members (the majority belong to the ruling party.)
**References:**
Council of Europe Venice Commission for Democracy through Law
OSCE Office for Democratic Institutions and Human Rights, Adopted by the Venice Commission at its 69th plenary session
see: “Georgia’s Parliamentary Election: Unprecedented Brutality and Election Fraud, Monitoring election of May 21, 2008 “, report

| 100 | 75 | 50 | 25 | 0 |

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals
appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed
usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party
loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to
personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

**Comments:**
By law, there is a requirement of certified professional staff that is implemented in practice as well. However, by all reports of
international and domestic observers, those trainings were usually formalistic, and the lack of knowledge and professionalism
were some of the reasons for major problems on election day.

**References:**
OSCE “Report on the May 21, 2008 Parliamentary Election in Georgia
Unified Election Code of Georgia

| 100 | 75 | 50 | 25 | 0 |

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic
mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.
Comments:
By law, all dates for publishing reports are fixed. However, as it was stated in the OSCE conclusions, the process was slow, the access to documents was limited even for the members of CEC from the opposition parties, and most importantly, the information was inaccurate.

References:
OSCE “Report on the May 21, 2008 Parliamentary Election in Georgia”
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze
Unified Election Code of Georgia

100: Reports are released to the public on a predictable schedule, without exceptions.

75: 

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25: 

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75: 

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25: 

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.
19. Are elections systems transparent and effective?

71

19a. In practice, there is a clear and transparent system of voter registration.

Comments:
Voter lists are an issue since the 2002 local elections in Georgia. Inaccuracy, falsification, duplication, omission are all common problems.

You can dial 1260 or send a request to the local election office and find out whether you are in a list or not, but it does not guarantee your registration. It is not my opinion, or complaints of political parties, but a proven fact verified and confirmed by OSCE that people kept disappearing from lists two days before the elections. Also we had thousands of duplications, thousands of underage persons in lists, thousands of people more than 100 years old, and finally tens of thousands of voters on May 2008 elections than in January 2008 elections. All this information is confirmed by OSCE.

Apparently government never denied problems and never protested strongly against those allegations using technical arguments.

References:
Georgia Vote 2008: Georgia: In Gori, Voter Lists Still Cause for Controversy
By Nina Akhmeteli: Dec. 26, 2007″
Liz Fuller, Radio Free Europe/ Radio Liberty

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost* voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO
References:
Unified Election Code, Article 77

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:
Abstract from the OSCE report:
The election administration at all levels, and the courts, did not fully and adequately consider and investigate a considerable number of complaints regarding irregularities in voting, counting and tabulation of election results. Some complaints included serious allegations of multiple voting, ballot stuffing, and tampering with protocols, with requests for annulment of a significant number of PEC summary protocols. The vast majority of these complaints were submitted by opposition parties and domestic NGOs, with almost none filed by the ruling party. There was an apparent avoidance to substantively consider complaints. The OSCE/ODIHR EOM received individual accounts, as well as NGO reports, that law enforcement bodies, local administration and courts actively discouraged observers and opposition supporters from filing complaints or suggested to withdraw them.

References:

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0
There have been no media reports as to the active involvement of either the military or the police in the election campaign.

**100**: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50**: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0**: The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

<table>
<thead>
<tr>
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**References:**
Unified Election Code of Georgia;

**YES**: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO**: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

| 100 | 75 | 50 | 25 | 0 |

**Comments:**
GYLA describes the level of pressure and harassment its observers experienced while monitoring May 21, 2008 parliamentary elections in Georgia.

**References:**
Sept. 9, 2008, The Georgian Young Lawyers’ Association (GYLA) and the International Society for Fair Elections and Democracy (ISFED) post election monitoring report;
June 6, 2008, Joint statement of Georgian Young Lawyers’ Association and International Society for Fair Elections and Democracy (ISFED) on district election commissions' monitoring results at: http://www.gyla.ge

Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkhheidze

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers’ activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers’ movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. Is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:
There is no separate agency, but the Election Commission under the law has the task of ensuring the integrity of the electoral process.

References:
Election Code of Georgia

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

II-3. Political Financing
20. Are there regulations governing the financing of political parties?

YES | NO

20a. In law, there are regulations governing private contributions to political parties.

References:
Law on Political Parties
Unified Election Code

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to political parties.

YES | NO

References:
Law on Political Parties
Unified Election Code

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on corporate donations to political parties.

YES | NO
YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | NO

References:
Law on Political Parties
Unified Election Code

YES: A YES score is earned if there are any limits in size on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for the disclosure of donations to political parties.

YES | NO

References:
Law on Political Parties
Unified Election Code

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances and expenditures of political parties.
YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures or if such requirements exist but allow for parties to self-audit.

20g. In law, there is an agency or entity that monitors the financing of political parties.

YES | NO

Comments:
The Ministry of Justice monitors the financing of political parties.

References:
Law on Political Parties
Unified Election Code

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are there regulations governing the financing of individual political candidates?

YES | NO

21a. In law, there are regulations governing private contributions to individual political candidates.
YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to individual political candidates, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to individual political candidates.

21b. In law, there are limits on individual donations to political candidates.

YES | NO

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are limits on corporate donations to individual political candidates.

YES | NO

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21d. In law, there are requirements for the disclosure of donations to individual political candidates.
**References:**  
Law on Political Parties  
Unified Election Code

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

21e. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

**References:**  
Law on Political Parties  
Unified Election Code

**YES:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate’s campaign finances and expenditures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate’s campaign finances and expenditures or if such requirements exist but allow for candidates to self-audit.

21f. In law, there is an agency or entity that monitors the financing of individual political candidates’ campaigns.

**References:**  
Law on Political Parties  
Unified Election Code

**Comments:**  
The Ministry of Justice and CEC monitor the financing of individual candidates’ campaigns.
YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates’ campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

22. Are the regulations governing the political financing of parties effective?

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual’s ability to financially support a political party.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Limits are so low (US$18 per month) that individual donations have only a symbolic character of support and loyalty.

References:

Political Party Financing in Georgia
Georgia Today, Issue #381; 02.11.07 – 08.11.07
http://www.georgiatoday.ge/article_details.php?id=3823

Interview with former member of party financing parliamentary group from the Republican Party, David Berdzenishvili

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company’s ability to financially support a political party.
Comments:
The limits and regulations are not sufficient, as they do not include in-kind contributions. As the notion of market price is rather abstract and irrelevant for Georgia, parties have a full discretion to value costs of any event organized for them.

References:
See reports of the OSCE, ISFED and GYLA after the 2008 elections:
http://www.gyla.ge
http://www.osce.org
http://www.isfed.ge

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party’s ability to fund campaigns or politically-related activities.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.
25:

Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

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Comments:
No investigation has ever been initiated or requested, in spite of the fact that all domestic and international observers identified grave violations in campaign financing by the ruling party—in particular massive misuse of administrative resources and state budget funds in both elections of 2008.

References:
There are no sources or reports, as no investigation have ever been initiated.
See OSCE reports for the 2008 elections.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, thought limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

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</table>

Comments:
On rare occasions parties get fines. This is not due to investigations, but to late submission (two-three days usually) of some parts of the documentation.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.
75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

22f. In practice, contributions to political parties are audited.

100  75  50  25  0

Comments:
The problem is that after every election there is special public body created under the Central Election Commission composed of people nominated by the political party, who do not necessarily have any special knowledge of auditing standards and even finances in general.

References:
OSCE election assessment reports for Georgia in 2008
Election Code of Georgia

100: Political party finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

30

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.
Comments:
Donations are so low (US$18 per month) that there is no effect other than moral support. At the same time, there is no regulation for indirect financial contributions with movable/immovable property, neither is the use of administrative resource. The use of public resources, i.e. government offices, cars, means of communication, as well as finances, is normal for any Georgian ruling party.

References:
Eurasia Insight: Post-election, Questions Linger about Georgia's Campaign Finance Practices, Nino Patsuria 2/22/08

Political Party Financing in Georgia
Georgia Today, Issue #381; 02.11.07 – 08.11.07
http://www.georgiatoday.ge/article_details.php?id=3823

Interview with former member of party financing parliamentary group from the Republican Party, David Berdzenishvili

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

Comments:
The limits and regulations are not sufficient, as they do not include in-kind contributions. As the notion of market price is rather abstract and irrelevant for Georgia, parties have a full discretion to value costs of any event organized for them.

References:
OSCE reports of the 2008 elections

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual
candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates’ campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:
No investigation has ever been initiated or requested, in spite of the fact that all domestic and international observers identified grave violations in campaign financing by the ruling party by massive misuse of administrative resources and state budget.

References:
See OSCE reports for Georgia 2008 elections.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates’ campaigns. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, thought limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates’ campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:
There are no available reports. This power is rather formalistic and has never been used in spite of numerous allegations by both domestic and international observers over misuse of public money and administrative resources. See OSCE reports on 2008 elections in Georgia.
100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

23e. In practice, the finances of individual candidates’ campaigns are audited.

100  |  75  |  50  |  25  |  0

Comments:
The problem is that after every election there is special public body created under the Central Election Commission composed of people nominated by the political party, who do not necessarily have any special knowledge of auditing standards or even finances in general.

References:
OSCE reports
Election Code of Georgia

100: The finances of individual candidates’ campaigns are regularly audited using generally accepted auditing practices.

75:

50: The finances of individual candidates’ campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates’ campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

83

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.
**References:**
Every February major political parties disclose information on their finances.
See Newspapers Rezonansi and 24 Hours.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Political parties disclose their sources of funding and expenditures at least every quarter.</td>
</tr>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.</td>
</tr>
</tbody>
</table>

**24b.** In practice, citizens can access the financial records of political parties within a reasonable time period.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.</td>
</tr>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>Records take two to four weeks to obtain. Some delays may be experienced.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.</td>
</tr>
</tbody>
</table>

**Comments:**
There are no limits or problems to get party financial declarations.

**References:**
See web page of Central Election Commission of Georgia.
Alternatively, see web pages of some parties.
http://www.republicans.ge
http://www.conservatives.ge
http://www.unm.ge

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.
Comments:
If downloaded from the web site it is free. Otherwise, there are photocopying costs.

References:
See web page of CEC

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<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.</td>
</tr>
<tr>
<td>75</td>
<td>Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.</td>
</tr>
<tr>
<td>50</td>
<td>0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.</td>
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25. Can citizens access records related to the financing of individual candidates’ campaigns?

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<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>0</td>
<td>25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.</td>
</tr>
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</table>

References:
No information is available, as there is no requirement for holding separate accounts for individual campaigns.

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<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>Individual candidates disclose their sources of funding and expenditures at least every quarter.</td>
</tr>
<tr>
<td>75</td>
<td>50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.</td>
</tr>
<tr>
<td>25</td>
<td>0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.</td>
</tr>
</tbody>
</table>
25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:
No information is available, as there is no requirement for holding separate accounts for individual campaigns.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:
No information is available, as there is no requirement for holding separate accounts for individual campaigns.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.
### III-1. Executive Accountability

#### 27. Can the chief executive be held accountable for his/her actions?

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**27a. In practice, the chief executive gives reasons for his/her policy decisions.**

**Comments:**
By law, all laws and regulations shall be accompanied by an explanatory note, but this provision is kept only in a formalistic manner and those notes lack concept and explanation. As for policy decision, there is no formal necessity for explanation, and due to the lack of media freedom it is rather difficult to get any information other than government produced propaganda.

**References:**
See TI reports on accountability of Georgian Government
See Resolution of the Parliamentary Assembly of the Council of Europe on Georgia

- **100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.
- **75:**
- **50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.
- **25:**
- **0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely sensor such sessions.

**27b. In law, the judiciary can review the actions of the executive.**
The constitutionality of acts can be checked by the Constitutional Court of Georgia, while the legality of actions of the executive is checked by common courts. A court can act only in the case of an appeal. The Constitutional Court does not have the right to challenge the acts on its own initiative.

References:
Constitution of Georgia
General Administrative Code of Georgia
Law on Constitutional Court

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:
Due to the lack of independence of the Judiciary, all those judgments are formalistic and never bring any results. Statistically, the government wins 90 percent of the cases. The exceptions are only punished with minor administrative fines.

References:
ABA/CEELI Judicial Reform Index
See Annual report of the Public Defender of Georgia to the Parliament;
See 2007 HRW report on Judiciary;
See US State department HR report, chapter on Judiciary
See report of the Georgian Young Lawyers’ Association on the Right to Fair Trail

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.
Comments:
Legally speaking, the executive does not have an authority to establish new regulations or policies as all shall be regulated by law. The only power that the executive has is to clarify or elaborate on the provisions of the law. However, in reality, as laws are lacking clarity and leave room for a large maneuver, we face constant surprises from the executive.

The problem here is that laws can be changed anytime without delay or problems and can be changed back and forth with the two weeks difference as it suits executive or interests of a particular minister. We had several cases of laws changed for a limited time period and then changed back.

As for privatization, it is not always made through a policy decision, but if we take e.g. so-called 100 hospital project. What was it? Just a typical privatization or policy decision. For those who does not know, a little explanation. One day the executive has decided that all hospitals in big cities shall be sold and there was no need for a hospital being centrally located. Hundreds of doctors lost a job overnight, massive territories in the center of the Capital city were sold for symbolic price and 40 million was assigned from the budget without parliamentary approval on 18th of December to a special fund created for those purposes on 17th of December. However that was not the end of the story, on 29th of December the special fund was canceled and money disappeared and today nobody talks about those 100 hospitals from the executive anymore.

References:
See law of Georgia on executive power at http://www.legislationline.org
See report of Transparency International on privatization in Georgia.
It has dozens of examples of authority manipulation by the executive, over establishing new policies and regulations.

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

References:
Constitution of Georgia, art.75
Law on Impeachment
YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

References:
Constitution of Georgia, art.64
Law on Impeachment, 1997

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

38

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

References:
Law on Conflict of Interests and Corruption, 1997, arts.14 and 26

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.
**References:**
Law on Conflict of Interests and Corruption, 1997, arts.14 and 26

<table>
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<th>YES</th>
<th>NO</th>
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**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

**YES** | **NO**

**Comments:**
It regulates that annual gifts cannot exceed the value of more than five times the minimum wages. This currently stands at 120 lari (US$73).

**References:**
Law on Conflict of Interests and Corruption, 1997
Criminal Code of Georgia, art. 340

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<th>YES</th>
<th>NO</th>
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**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

**YES** | **NO**

**References:**
No law requires that.
YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Comments:
The practice is that they immediately go to private sector, i.e. businesses they were lobbying for while in the government.

References:
No legal regulations exist.

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former
government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

| 100 | 75 | 50 | 25 | 0 |

Comments:
This is not effective, as there is no regulation for follow-up checks and monitoring.

References:
See Media reports from June 2008 on Gift to ex-speaker of Parliament at [http://www.georgiatoday.ge](http://www.georgiatoday.ge) [http://www.geotimes.ge](http://www.geotimes.ge) on July 16, 2008

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Newspaper Alia published regular information, but it is more informing rather than auditing.

References:
There are no requirements for audits.

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.
Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

| YES | NO |
--- | --- |

References:
General Administrative Code of Georgia, Chapter 3, Freedom of Information

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

| 100 | 75 | 50 | 25 | 0 |
--- | --- | --- | --- | --- |

Comments:
It takes between 10 days and a month to get the information requested. No reports on delays and any particular problems exist.

References:
See reports of the Georgian Young Lawyers’ Association, Government under Sunshine*: [http://www.gyla.ge](http://www.gyla.ge);
See annual reports of the Public Defender of Georgia: [http://www.ombudsman.ge](http://www.ombudsman.ge)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.
Records take around two weeks to obtain. Some additional delays may be experienced.

Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

Comments:
Only photocopying costs are charged, as required by law. No other information has been reported.

References:
No problems have been reported.

Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. Can citizens sue the government for infringement of their civil rights?

YES  |  NO

References:
Constitution of Georgia , art. 42
YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. Official government functions are kept separate and distinct from the functions of the ruling political party.

0

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:
All reports from both 2008 elections identified The campaign environment has been soured by allegations of use by Mr. Saakashvili of budgetary funds, unequal campaign conditions, intimidation, and vote buying. The OSCE/ODIHR EOM has received information and first-hand accounts, which indicate that some of these claims are credible." (OSCE Georgia: Extraordinary Presidential Election 2008; INTERIM REPORT No. 2) or Actions have been “blurring the separation between state activities and candidates’ election campaign.”

The period reviewed here was almost entirely electoral and there were little opportunities for judging on other occasions. We can also review various situations: E.g. the minor one, what is the attendance of European People’s Party meeting by the members of the affiliated party National Movement? Is it party activity or government action? I believe it is party activity, but paid from state budget for party members and their family members. What is it when state or regional budget is funding opening and maintaining of the food shelters for elderly? Is it a state activity, budgetary program approved by the parliament belonging to the functions of the executive or party action? I guess it is a state activity, executive performing its duties as assigned by the law of the parliament. Then why does it happen that all of those shelters / or food falls have signs and are maintained as party projects under the heading of the National Movement? Not during the elections but always for the last three years.

References:
See reports
OSCE Final Report on the Jan. 5, 2008 Extraordinary Presidential Election in Georgia”
OSCE “Report on the May 21, 2008 Parliamentary Election in Georgia”

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.
III-2. Legislative Accountability

32. Can members of the legislature be held accountable for their actions?

75

32a. In law, the judiciary can review laws passed by the legislature.

YES | NO

References:
Constitution of Georgia, art. 89
Law of Georgia on Constitutional Court, 1997
Law of Georgia on Constitutional Proceedings, 1997

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:
By law, courts do not have the right to start cases themselves. It all depends on the appeal.

References:
Constitution of Georgia

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.
0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES  |  NO

References:
Constitution of Georgia
Law on Members of Parliament
Procedural rules of Parliament
Criminal Code

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

29

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES  |  NO

References:
Law of Georgia on the status of Members of Parliament
Procedure rules of the Parliament
Law of Georgia on Conflict of Interests and Corruption

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.
33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

| YES | NO |

References:
No such regulation exists.

**YES:** A YES score is earned if there are regulations restricting national legislators’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

| YES | NO |

Comments:
MPs can accept annual gifts worth five times the minimum wage — that is five times US$73.

References:
Procedure rules of the Parliament;
Law of Georgia on Conflict of Interests and Corruption;
Criminal Code of Georgia, art. 340

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

| YES | NO |

References:
No regulations exist.
YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.</td>
</tr>
<tr>
<td>75</td>
<td>The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.</td>
</tr>
<tr>
<td>50</td>
<td>The regulations are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups.</td>
</tr>
<tr>
<td>25</td>
<td>The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.</td>
</tr>
<tr>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

References:
There are no regulations, thus no restrictions.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.</td>
</tr>
<tr>
<td>75</td>
<td>The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups.</td>
</tr>
<tr>
<td>50</td>
<td></td>
</tr>
</tbody>
</table>

References:
This is not effective, as there is no audit mechanism available. See Media reports from June 2008 on Gift to the ex-speaker of Parliament at [http://www.georgiatoday.ge](http://www.georgiatoday.ge) on July 16, 2008.
25: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

33g. In practice, national legislative branch asset disclosures are audited.

| 100 | 75 | 50 | 25 | 0 |

References:
No legal regulation exists.

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

34. Can citizens access the asset disclosure records of members of the national legislature?

92

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

References:
General Administrative Code of Georgia, Chapter 3, Freedom of Information
Law of Georgia on Conflict of Interests and Corruption

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).
NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

<table>
<thead>
<tr>
<th>Score</th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
It takes form 10 days to a month to get the information requested. Usually one gets complete information, but delays are normal. For example, I have all information on my desktop, but it took long explanations and exchanges of letters on why it was legal to request electronic copies of all information available on the subject.

**References:**
There have been no reports on delays and any particular problems. see all documents at [http://www.parliament.ge](http://www.parliament.ge)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

<table>
<thead>
<tr>
<th>Score</th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
There are photocopying costs.

**References:**
There have been no reports.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.
25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

35. Can citizens access legislative processes and documents?

92

35a. In law, citizens can access records of legislative processes and documents.

YES | NO

References:
Constitution of Georgia, art. 24
General Administrative Code, ch.III
Procedure Rules of the Parliament

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Of all state institutions, the Parliament is the most open in terms of freedom of information.

References:
There have been no reports on particular problems in this respect.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:
Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

Comments: One pays only photocopying costs.

References: There have been no reports of any particular problems.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

III-3. Judicial Accountability

36. Are judges appointed fairly?

| 42 |

36a. In law, there is a transparent procedure for selecting national-level judges.

Comments: There are certain regulations, but if the question is about transparency laws do not envisage any particular process for transparency and public oversight. Transparency means much more than having a web-page with lists and bios. There needs to be a debate, or any kind of process accompanying bio publishing. When laws are changed for particular people by the parliament.
to serve loyalty needs of the executive I do not think it is serious to talk about the democratic procedure, whether it is transparency or anything similar.

References:
Law on Common Courts, arts. 47, 48
There is no regulation and procedure for public oversight in the process.

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Most of the articles and procedures prescribed by law are formalistic; in practice, the state of affairs of the Georgian Judiciary is the best indicator.

References:
See Uldis Kinis: The most problematic issue in Georgia remains the application of priorities relating to the independence of the judiciary. Mr. Uldis Kinis, Chairman of the Kuldiga district court of Latvia and former rule of law expert in the EUJUST Themis mission to Georgia.

See UNDP Human Development Report, Georgia 2008

Human Rights Watch World Report 2008. Quote from Georgia: The United States is one of Georgia’s strongest allies. Prior to the November events, the US resisted publicly criticizing Georgia on its human rights record, though it did publicly call on the government to implement reforms on property rights, an independent judiciary, and the criminal procedural code."

Amnesty International 2008 Annual Report for Georgia

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.
36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

| YES | NO |

Comments:
Supreme Court judges have to be confirmed by the Parliament.

References:
Constitution of Georgia
Law on the Supreme Court
Law on the Constitutional Court

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

37. Can members of the judiciary be held accountable for their actions?

46

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

| YES | NO |

References:
Law on Constitutional Court Procedure
Civil Procedures Code
Criminal Procedures Code
Administrative Procedures Code

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.
Unreasoned judgments are still common for the Georgian judiciary, especially at the first level of hearings. Abstract from the OSCE report: The election administration at all levels, and The Courts, did not fully and adequately consider and investigate a considerable number of complaints regarding irregularities in voting, counting and tabulation of election results. There was an apparent avoidance to substantively consider complaints. The OSCE/ODIHR EOM received accounts that law enforcement bodies, local administration and Courts actively discouraged observers and opposition supporters not to file complaints or suggested to withdraw them.

**References:**
See OSCE report – Georgia Extraordinary Presidential Election 2008
POST-ELECTION INTERIM REPORT/6, Jan. 18, 2008

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

**YES** | **NO**

**References:**
Law of Common Courts;
Law on Disciplinary Responsibility and Disciplinary Procedure of the Judges of Common Courts;

**YES**: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO**: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.
Comments:
Members of the Disciplinary Collegium are not selected in a fair manner. There is always room for making decisions for various other reasons than just legal arguments and facts pertaining to the case.

There are formal rules, but they are not clear and do not set clear criteria. Although more than half of the members are judges, that does not mean they are independent (please see answer to the question 80b for independence of judges and judiciary). The recent case of the secretary of high council of justice being the same person as the chairman of Tbilisi appellate court might serve as an argument and valuable case. By law last year the position of the Secretary of Justice of a full time position of a main official in the system. The law was changed specifically for one man, former secretary of the council of justice, when he was appointed as a chairman of the Tbilisi Appellate court, giving him the right to stay at the same time on top position at the Council of Justice. Why was it so important? Because he was a highly loyal person to the ruling elite, former prosecutor himself and under the current state of affairs trusting one man on two key positions was the easiest option.

References:
Law of Common Courts;
Law on Disciplinary Responsibility and Disciplinary Procedure of the Judges of Common Courts; art.24

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

References:
See report of the Public Defender of Georgia from 2007 and first half of 2008:
See also, UN Committee against Torture

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:
0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:
See Amnesty International 2008 Annual Report for Georgia

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

32

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

References:
Law on Conflict of Interests and Corruption

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.
38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

References:
Law on Conflict of Interest and Corruption
Criminal Code of Georgia, art. 340

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

References:
No regulation exists.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | NO

References:
No regulation exists.
YES: A YES score is earned if there are regulations restricting national-level judges’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

|   | 100 | 75 | 50 | 25 | 0 |

References:
No regulation exists.

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

|   | 100 | 75 | 50 | 25 | 0 |

References:
This is not effective as there is no monitoring or regulation for audit.

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.
The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

38g. In practice, national-level judiciary asset disclosures are audited.

|   | 100 | 75 | 50 | 25 | 0 |

References:
There have been no reports as there are no legal requirements.

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

|   | YES | NO |

References:
General Administrative Code of Georgia, Chapter 3, Freedom of Information

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.
39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
It takes form 10 days to a month to get the requested information.

References:
There have been no reports on delays or any other particular problems.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
One pays only for photocopying.

References:
There have been no reports.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:
II-4. Budget Processes

40. Can the legislature provide input to the national budget?

0

40a. In law, the legislature can amend the budget.

YES | NO

Comments:
In the 2007 report, the peer-reviewer wrote: "The reporter’s comments clearly indicate that the Parliament can indeed amend the budget." This is not true. In law, the Parliament cannot amend the budget, and this is an imperative rule. MPs can submit their opinions to the government but only the government can make any amendments to it. The Parliament has the right to adopt or refuse, but not to change. In case of refusal a confidence vote is to take place in Parliament, or the president can dismiss the Parliament.

References:
Constitution of Georgia
Law on Budgetary Systems of Georgia, art. 22
Law on Structure and Power of the Government of Georgia

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:
The law requires approval of spending from all funds if they exceed the limit approved by the parliament for more than 2%. This is where we have major problems. The fact that parliament returned the budget in 2008 does not mean anything regarding this question.
References:
In law, there is no requirement of that type. The Parliament's only role is to approve the budget.

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:
The answer is clearly NO.
By legislation or by the state budget, there is no staff considered for this purposes. Georgian MPs do not even have assistants, not to mention the special service/staff unit dedicated to overseeing the budget, despite various foreign donor training programs associated with parliamentary budget oversight.
For a number of years, there was a special budgetary office with the staff of the Parliament with no real power and force, but having at least political leverage. The office was abolished last year.

References:
There have been no reports as there was no monitoring process from the Parliament for the last three years now.

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

8

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).
Comments:
There is no debate over the budgetary process in the Georgian Parliament. Budget proposals are submitted with huge delays and the Parliament is always in a rush to approve it. At the same time, Georgia has a practice of adopting amendments to the state budget on the very last days of the year — e.g. the 2007 budget was amended on December 27. This already speaks for the transparency and adequacy of the process. Consideration of the budget in 2007 was absolutely non-transparent and there were no debates. Firstly because part of November we had emergency situation declared after 7th of November and than immediately electoral campaign started for presidential elections. Secrecy of 2008 budget was due to the massive misuse of public funds for electoral purposes of the ruling party.

References:
See Georgian Government under Sunshine* – anti-corruption reports of the Georgian Young Lawyers’ Association, editions 1-5: hhttp://www.gyla.ge/foi
See TI Georgia reports
See http://www.parliament.ge

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

References:
There are no media reports that citizens have ever provided any input to the budget processes.

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:
0: Citizens or CSOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

Comments:
Citizens or NGOs can access only what is approved by the Parliament. Only in rare cases do ministries publish their budgets in a more detailed format on their web sites.

References:
See http://www.GYLA.ge/FOI – Government under Sunshine reports

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

8

43a. In practice, department heads regularly submit reports to this committee.

Comments:
Georgian laws on budget and budgetary systems provide for quarterly reports of the Ministry of Finance to the Parliament about the state of affairs of the budgetary processes. It includes both the income and the expenditure. There is no other department or agency that provides any report on budgetary processes to the Parliament or its committees.

References:
See Law of Georgia on budget and budgetary systems
100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75: 

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25: 

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

Comments:
All committees in the Parliament have symbolic representation from the opposition, as any one MP has the right to serve only in two committees, and the whole opposition has around 20 seats out of 150.

References:
See http://www.parliament.ge

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75: 

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25: 

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.
References:
There have been no media reports of it ever happening.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

42. Is there a separate legislative committee which provides oversight of public funds?

100

42. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

Comments:
The law lists no committees or functions. However, the Budget and Finance Committee of the Parliament performs this role.

References:
The law provides for this function.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

Category IV. Administration and Civil Service

IV-1. Civil Service Regulations
44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

50

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:
The law does not go beyond general statements and does not give any guarantees as to the protection of impartiality and non-partisan nature of the civil service.
There are no regulations and procedural rules regulating the independence and impartiality of the service.

References:
Law on Public Service, Art.13

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:
It is prohibited to have close relatives under direct supervision. This is the only provision in this respect.

References:
Law on Public Service, art.17

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.
Comments:
One mechanism that exists within each ministry is the General Inspector, where civil servants can claim redress. It is fully dependent on minister but independent from one’s direct superiors. In addition, civil servants can seek redress through the court system.

References:
General Rules of Administrative Procedure, under the Code of Administrative Procedure

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism’s decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

**YES** | **NO**

Comments:
Law on Public Service, art.17, has a general prohibition that persons under any investigation or sentence cannot serve in the civil service before the term of the sanction expires. After the term of the sanction, however, the individual can once again take up government employment.

References:
No special rules exist.

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

45a. In practice, civil servants are protected from political interference.
Comments:
As there is a procedure for appointing qualification exams and attestations at any time, and there are no objective criteria set by the law, it is used as a tool for firing all staff as a new minister or head of administration takes office.

References:
Law on Public Service
See also recent report by the Atlantic Council of the United States Post Conflict Georgia", September, 2008; Part on Democracy: “Georgia’s governance problems are compounded by the absence of an independent and professional civil service”.

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

References:
No criteria is provided by law. Appointments are usually related to party loyalties.
See also recent report by the Atlantic Council of the United States Post Conflict Georgia", September, 2008; Part on Democracy: “Georgia’s governance problems are compounded by the absence of an independent and professional civil service”.

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:
Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

Comments:
After any reshuffle of government, the majority of the staff of ministries and departments are fired, and new, party members loyal to concrete person are appointed.

References:
See http://www.gyla.ge/FOI
See reports of the Public Defender of Georgia on firing civil servants

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

Comments:
There are almost no job descriptions. Contracts are of a general character and civil servants are on call for the next assignment.

References:
I have requested job descriptions from the State Chancellery, Ministry of Finance, Ministry of Agriculture. They have pointed to me the appropriate laws and general goals of the ministries. There are no concrete job descriptions for their employees.

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.
Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position’s responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

Comments:
There is no system of bonuses in Georgia, which is why there are no reports in this regard. Yet, the law on public service allows for one time bonus annually, or a special gift.

References:
There are no available reports.

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants’ bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

References:
See newspaper 24 hours – all positions are posted there.

100: The government publishes such a list on a regular basis.
The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

The government rarely or never publishes such a list, or when it does it is wholly incomplete.

In practice, the independent redress mechanism for the civil service is effective.

Comments:
There have been a number of cases where illegally-fired public servants have won against the institutions, but the big majority of redress cases have never been executed, as after massive firings the public institutions change the names of the departments and posts and on formal grounds they refuse re-hiring, as their former positions do not exist any more.

References:
Labor Code Law on Public service
Code of Administrative Procedure
See reports of the Public Defender of Georgia at http://www.ombudsman.ge

The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

In practice, in the past year, the government has paid civil servants on time.

Comments:
Generally payments are paid according to the scheme and there have been no delays since the current government came to power. However, due to massive spending from the budget in 2008, there were numerous reports on payment delays to the employees of Parliament, teachers and pensioners.
In the past year, no civil servants have been paid late.

In the past year, some civil servants have been paid late.

In the past year, civil servants have frequently been denied due pay.

In practice, civil servants convicted of corruption are prohibited from future government employment.

There were some show cases of punishment for corruption, and those officials so far do not hold any position (e.g. the head of the customs department,) but normally they are transferred to another job.

A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

Are there regulations addressing conflicts of interest for civil servants?

In law, senior members of the civil service are required to file an asset disclosure form.
YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.
46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

**YES | NO**

**Comments:**
Provisions apply only to top-level civil servants.

**References:**
Law on Conflict of Interest and Corruption
There is a limit on gifts and hospitality that can be accepted annually.

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

**YES | NO**

**References:**
There are no regulations.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**References:**
There are no regulations.
<table>
<thead>
<tr>
<th>100:</th>
<th>The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75:</td>
<td></td>
</tr>
<tr>
<td>50:</td>
<td>The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.</td>
</tr>
<tr>
<td>25:</td>
<td></td>
</tr>
<tr>
<td>0:</td>
<td>The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.</td>
</tr>
</tbody>
</table>

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

| 100 | 75 | 50 | 25 | 0 |

References:
No regulation applies on checking and auditing, thus the whole system is formalistic and ineffective.

<table>
<thead>
<tr>
<th>100:</th>
<th>The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75:</td>
<td></td>
</tr>
<tr>
<td>50:</td>
<td>The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.</td>
</tr>
<tr>
<td>25:</td>
<td></td>
</tr>
<tr>
<td>0:</td>
<td>The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.</td>
</tr>
</tbody>
</table>

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

| 100 | 75 | 50 | 25 | 0 |

References:
There have been no reports.
The regulations are rarely applied in practice.
See report of the Public Defender of Georgia from 2007 at [http://www.ombudsman.ge](http://www.ombudsman.ge)
The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

References:
There are no regulations.
Reports are sometime published only by NGOs, but even they are not interested in civil servants.

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

92

47a. In law, citizens can access the asset disclosure records of senior civil servants.
### YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

### NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

#### 47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

<table>
<thead>
<tr>
<th>Score</th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

#### Comments:
It takes between 10 days and one month to get the requested information. There have been no reports on delays and any particular problems.

#### References:
No problems have been reported.

#### 100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

#### 75:

#### 50: Records take around two weeks to obtain. Some delays may be experienced.

#### 25:

#### 0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

#### 47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

<table>
<thead>
<tr>
<th>Score</th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

#### Comments:
Only photocopying costs are charged, as required by law.

#### References:
No problems have been reported.
IV-2. Whistle-blowing Measures

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

38

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:
Law on Organized Crime
Georgian Criminal Procedure Code

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.
Comments:
The legislation is rather new and it is too early to judge its effectiveness. There were no cases reported yet.

References:
There have been no media reports.

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:
There have been no media reports. There are no regulations.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

References:
Appropriate provisions absent from Law on Organized Crime
Georgian Criminal Procedure Code
Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

IGs are not independent in Georgia, they are under the arms of ministers or the General Prosecutor. Thus its effectiveness is hindered. There is a lack of staff and formalistic approach to the problems. Mostly they are covering minor administrative violations by their colleagues.

References:
See report of the Georgian Young Lawyers’ Association on the effectiveness of Internal monitoring mechanisms at http://www.gyla.ge/foi

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.
Comments:
There are no delays in allocation of funds, but the problem is the lack of funds and inadequacy of human and material capacity in their hands.

References:
See ABA report on IGs

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

Comments:
By law, there is a 30 day procedure for reacting to any complaint. In many cases, however, the IG simply doesn’t respond. I have submitted a complaint myself, and for six month have received no reply from the IG of the General Prosecutor’s Office.

References:
There have been no media reports, as no outlet thinks their actions are serious and interesting.

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.
50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Comments:
No noticeable cases have been covered by the IG. The ordinary procedure goes through the General Prosecutor's Office or MIA Constitution Protection Unit.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association
See 2007, part 2, report of the Georgian Young Lawyers’ Association on monitoring internal mechanisms and corruption: [http://www.gyla.ge](http://www.gyla.ge)

| 100 | 75 | 50 | 25 | 0 |

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:
There is a hot-line of the General Prosecutor's Office. There are internal inspectorates in most state institutions, where civil servants can report crimes of corruption.

References:
Criminal Procedure Code of Georgia
Law on Procuracy
**IV-3. Procurement**

51. Is the public procurement process effective?

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td><strong>51a.</strong> In law, there are regulations addressing conflicts of interest for public procurement officials.</td>
<td><strong>YES</strong></td>
</tr>
</tbody>
</table>

**References:**
Not addressed by the law on Public Procurement, art.8

**51b.** In law, there is mandatory professional training for public procurement officials.

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>YES</strong></td>
<td>NO</td>
</tr>
</tbody>
</table>

**References:**
Law on Public Service does not stipulate any procedure or regulation

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.
51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Regulations regarding conflicts of interest for procurement officials are aggressively enforced.</td>
</tr>
<tr>
<td>75</td>
<td>Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.</td>
</tr>
<tr>
<td>50</td>
<td>Conflict-of-interest regulations do not exist, or are consistently ineffective.</td>
</tr>
</tbody>
</table>

References:
There are no regulations to enforce.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.</td>
</tr>
<tr>
<td>NO</td>
<td>A NO score is earned if no such mandate exists.</td>
</tr>
</tbody>
</table>

References:
There is no mechanism for any public agency to monitor procurement officials. It is only the Prosecutor’s Office, if a criminal investigation starts.

51e. In law, major procurements require competitive bidding.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.</td>
</tr>
<tr>
<td>NO</td>
<td>A NO score is earned if no such mandate exists.</td>
</tr>
</tbody>
</table>
### 51f. In law, strict formal requirements limit the extent of sole sourcing.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**YES**

A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO**

A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

### 51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**YES**

A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO**

A NO score is earned if no such process exists.

### 51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**YES**

A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO**

A NO score is earned if no such process exists.
YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

References:
Constitution of Georgia, art. 42
Law on Public Procurement, art.17

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

References:
No regulation exists.

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

100 | 75 | 50 | 25 | 0

References:
No regulations exist, but there is a practice with some ministries who publish so-called black lists.” It was so far done only by the Ministry of Education.
see http://www.moe.gov.ge

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:
A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

52a. In law, citizens can access public procurement regulations.

YES | NO

References:
General Administrative Code of Georgia, Chapter 3, Freedom of Information

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

References:
General Administrative Code of Georgia, Chapter 3, Freedom of Information
Law on Public Procurement
Newspaper 24 Hours

52c. In practice, citizens can access public procurement regulations within a reasonable time period.
**Comments:**
Contracts on building roads, as well as military and health sector procurements are not officially secret, but are not easily accessible.

**References:**
Newspapers Rezonansi and Alia regularly publish info about denial of information.

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

**Comments:**
Due to the volume of information, it is pretty expensive.

**References:**
Only photocopying costs are charged, as required by law. No other information has been reported.

<table>
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<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.
### Comments:
The main issue is the quick deadlines. Ads might be placed in the newspaper three-four days before the deadline. Ads are not detailed — they do not give concrete information as to the requested documents, etc.

### References:
*Newspaper 24 Hours* is used for all advertisements.

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

### Comments:
Disclosure of information varies from case to case. Receipt of information depends on the type of information requested. Contracts on building roads, as well as military and health sector procurements are not officially secret, but are not easily accessible.

### References:
Interview with the chairman of GYLA, Giorgi Chkheidze

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.
IV-4. Privatization

53. Is the privatization process effective?

53a. In law, all businesses are eligible to compete for privatized state assets.

YES  |  NO

References:
Law on Privatization of State Property and Property of the Local Government from 1997
Law on Privatization of the Agricultural Land from 2005

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES  |  NO

References:
Law on Privatization of State Property and Property of the Local Government from 1997
Law on Privatization of the Agricultural Land from 2005

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.
References:
The there are no legal requirements or restrictions.

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

60

54a. In law, citizens can access privatization regulations.

YES | NO

References:
Law on Privatization of State Property and Property of the Local Government from 1997, art. 9
Law on Privatization of the Agricultural Land from 2005

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.
Comments:
24 hours’ is the official paper where the government places advertisements; however, not everything gets published. http://www.privatization.ge is the official site of the Ministry of Economy, where most of the privatization ads are posted. This is more complete compared to the newspaper info.

References:
See http://www.privatization.ge
See 24 Hours’ for all announcements

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:_____

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:_____

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:
Law on Privatization of State Property and Property of the Local Government from 1997
Law on Privatization of the Agricultural Land from 2005

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.
Comments:
General regulations are on the internet at http://www.privatization.ge
It is easy to access and have information. Sometimes it is impossible to get any info before the end of the privatization process, sometimes it is accessible with delays and sometimes any requests are welcome.
If the privatization is announced for formalistic reasons, obviously it is impossible to get any info.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze
See report on privatization in health and energy sectors of Transparency International Georgia at http://www.transparency.ge/

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

Comments:
In practice, citizens can access privatization regulations at a reasonable cost.

References:
Interview with the chairman of the Georgian Young Lawyers’ Association, Giorgi Chkheidze
http://www.privatization.ge

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.
56. Is the national ombudsman effective?

59

56a. In law, the ombudsman is protected from political interference.

YES  |  NO

References:
Constitution of Georgia, Article 43
Law on Public Defender

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100  |  75  |  50  |  25  |  0

Comments:
It is common in Georgia for the Ombudsman to be considered politically biased. If in all previous cases he/she was pro government or another arm of the regime, now it is largely considered to be influenced by the opposition political forces. August-September 2008 were particularly marked with frequent gatherings of the opposition political parties at the office of the Public Defender. See reports in Georgian Media. As the Public Defender does not have enough power and authority over investigations, his/her reports are based more on assumptions and non-tangible evidence (interviews, testimonies) than on facts.

References:
Media reports June 2008 during parliamentary hearings of the Public Defender
2008 report of the Public Defender
**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

---

**100** | **75** | **50** | **25** | **0**

**References:**
The law on Public Defender
Media reports from Nov. 6-9, 2007, when the government tried to influence the public defender to resign. The ombudsman kept the position.

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

---

**100** | **75** | **50** | **25** | **0**

**Comments:**
Due to serious efforts and support from OSCE and UNDP, there were series of trainings and qualification programs, and the level of professionalism of the staff members is gradually increasing. The problem is the small number of the staff. With the constant increase of the state budget, the government never bothered to give adequate resources to the Public Defender’s office.
100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.
75:
50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.
25:
0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

References:
No reports and particular problems have been reported by media or NGOs.

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.
75:
50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.
25:
0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:
With the constant increase of the state budget, the government never bothered itself to give adequate resources to the Public Defender’s Office.

References:
Law on State budget
100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

References:
See Bi-annual reports of the Public Defender’s office, published in newspapers, journals, on web sites of the office. NGO reports.

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:
The public defender does not have formal investigative powers. Its work is limited to the actions similar to journalistic investigation.

References:
Law of the Public Defender
Interview with the Publisher of Newspaper Rezonansi
The agency aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The agency is fair in its application of this power.

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

0: The agency rarely investigates on its own or cooperates in other agencies’ investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

References:
Law of the Public Defender
There are no formal powers to impose penalties.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

Comments:
There is constant denial by the government of almost all findings and reports of the Public Defender’s office. There were changes to the laws, which do not change practice. It was insignificant in terms of real effect.

On property issues there was one show with the participation of the president, General Prosecutor and Public Defender in February 2008 with all the promises and greetings of the PD recommendations but nothing was done after that and there was no single meeting of that commission dealing with violations of property issues ever called
References:
There have been no reports of actions by the government. NGOs could not identify any cases of follow-up actions by the government.

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

Comments:
Due to the increase of confidence towards the Public Defender's Office, there is a drastic increase of applications. In spite of financial problems and lack of staff, the Public Defender’s Office is improving its record in terms of timely reactions and responses.

References:
Interview with Besarion Bokhashvili, Georgian Young Lawyers’ Association,

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).
YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:
Law of Public Defender

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:
Reports are free to obtain from the Public Defender’s Office or to download from web sites.
100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

55. Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

**YES** | **NO**

Comments:
By constitution Georgia has a public defender/ombudsman.

References:
Constitution of Georgia
Law on Public Defender/Ombudsman

**YES**: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO**: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

---

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

41
59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:
Formally it is fully separate from the government. The chief is directly appointed by Parliament and answers to Parliament as well.

References:
Law on Chamber of Control

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:
All heads of the Chamber of Control left pre-term due to political pressure. Appointments have been made solely due to political locality. No explanation was ever given.

References:
See media reports on the appointment of the new chairman of the Chamber of Control, Levan Bejashvili, at http://www.interpressnews.ge
July 15, 2008 Levan Bejashvili is appointed head of the Chamber of Control of Georgia

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.
Comments:
There were complaints from the government upon the appointment of the new chair, because of the lack of professionalism and need for reform at the Chamber of Control. As for numbers in comparative terms with other agencies, it has limited budget which obviously causes under staffing.

References:
See media reports from July 2008 at http://www.interpressnews.ge

100: The agency has staff sufficient to fulfill its basic mandate.
75:
50: The agency has limited staff that hinders it ability to fulfill its basic mandate.
25:
0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

Comments:
As all heads of the Chamber of Control left pre-term due to political pressure, and every next appointment has been made solely due to political loyalty, there is a belief that subsequent appointments are made according to the political instructions of the chair.

References:
See media reports from July 2008 at http://www.interpressnews.ge

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.
75:
50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.
25:
0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.
References:
There have been no media reports on cutting funds or delays for political reasons. However, as most of the other agencies, they have experienced delays in the spring of 2008 due to the shortage of money in the budget.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

References:
By law, there are annual reports to Parliament. This is mostly enforced, although deadlines are frequently missed. See also web page of the Chamber of Control. All reports are released there: http://www.control.ge

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.
References:
There have been no media reports that the findings of the Chamber of Control have ever been the reason for any investigation. 
http://www.control.ge

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

Comments:
In July 2008, Parliament started talks about the increase of powers of the Chamber of Control.

References:
There are no such media reports.
By law, the Chamber of Control does not have the right to investigate.

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?
60a. In law, citizens can access reports of the audit agency.

**YES** | **NO**

**References:**
Law on Chamber of Control  
General Administrative Code, ch. III

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**
Reports are difficult to obtain, as in most of cases they contain unpleasant information for high ranking public officials. Those reports are not for immediate reaction or investigation but rather used as blackmail in case those officials will consider loyalty shifts.

**References:**
Interview with the anti-corruption team leader of the Georgian Young Lawyers' Association, Tamar Gurchian  
See report of audit institutions at [http://www.gyla.ge/Foi](http://www.gyla.ge/Foi)

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.
Comments:
One needs to pay only for photocopying, which could prove expensive, as Chamber of Control materials are huge in volume with all the attachments and spread sheets.

References:
Interview with the anti-corruption team leader of the Georgian Young Lawyers’ Association, Tamar Gurchian
See report of audit institutions at http://www.gyla.ge/Foi

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

58. Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:
The audit institution is called the Chamber of Control.

References:
Constitution of Georgia
Law on Chamber of Control

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.
62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
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</table>

Comments:
Tax administration and collection have improved dramatically during the last years. It is difficult to judge whether it is due to more professionalism of the staff or the political will.

References:
There have been no reports on significant problems.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

<table>
<thead>
<tr>
<th></th>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

References:
Regular and sufficient funding is provided. See Law on State Budget of Georgia

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.
The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

75

65a. In practice, the customs and excise agency has a professional, full-time staff.

100  75  50  25  0

Comments:
Ongoing reform of customs is a serious problem.

References:
See annual speech of the president of Georgia to Parliament in 2007, where he identifies customs and issues related to the collection of customs dues as the major problem for the country.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100  75  50  25  0

References:
No problems have been noticed.
Regular and sufficient funding is provided. See Law on State Budget of Georgia.
100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. Is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

Comments:
The Ministry of Finance performs this function in Georgia.

References:
Tax Code of Georgia

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

63. Are tax laws enforced uniformly and without discrimination?

100

63. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

References:
No media reports or professional studies prove otherwise.
100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. Is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

Comments:
The Ministry of Finance and Customs agency fulfill this function in Georgia.

References:
Tax Code of Georgia
Customs Code of Georgia

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

66. Are customs and excise laws enforced uniformly and without discrimination?

100

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0
References:
There have been no reports of discrimination.

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. State-Owned Enterprises

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

30

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

References:
The Ministry of Economic Development is in charge. It is part of the executive, thus not independent from political interference.

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.
Comments:
There is one small department dealing with the issue, which leads to the assumption that there is a shortage of staff.

References:
There have been no media reports on this matter.
See rules of procedure of the Ministry of Economy

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100  |  75  |  50  |  25  |  0

References:
There have been no media reports.
The ministries are well-funded from the state budget.

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.
References:
The Ministry of Economic Development does not have such an authority by law.

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

References:
No uniform regulations exist.

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?
69a. In law, citizens can access the financial records of state-owned companies.

**YES | NO**

**References:**
It is covered by the General Administrative Code of Georgia, Chapter III

**YES:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**References:**
There have been no reports or published information on them.
It is impossible to find it through public sources, whether print publications or the internet.

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0
References:
No uniform regulations exist. It is up to the company which firms and what kind of audit services to use.

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
As there is no uniform supervisory mechanism, and information is not placed at any one location, getting records of state-owned companies is a long and complicated process. It takes lots of time to first locate the information and then to argue for the applicability of freedom of information laws.

References:
Interview with the head of anti-corruption unit of the Georgian Young Lawyers’ Association, Tamar Gurchiani

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
One needs to pay only for photocopying.
67. Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

References:
The Ministry of Economic Development of Georgia is overseeing state-owned companies. The city municipalities are overseeing the companies under their competence.

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

53

V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?
70a. In law, anyone may apply for a business license.

**YES** | **NO**

**Comments:**
No discrimination policy might be exercised.

**References:**
Constitution of Georgia;
Law on Licenses and Permissions, 2005

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

**YES** | **NO**

**References:**
Constitution of Georgia, art 42
Administrative Procedure Code; rules on challenging decisions of administrative bodies;

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**
The law stipulates a three-month-period for obtaining a license; the appropriate state agencies can add another three months
before they issue the license. The process has been simplified significantly in recent years.

References:
Law on Licenses and Permissions, art. 10

100: Licenses are not required, or licenses can be obtained within roughly one week.
75:
50: Licensing is required and takes around one month. Some groups may be delayed up to a three months
25:
0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
Cost is not high.

References:
There have been no reports on the issue.
All costs are defined by the Law on Dues for Licenses and Permissions from 2003

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.
75:
50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.
25:
0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

0
71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:
There are no clear rules on health requirements. It is one of the sources of corruption in Georgia.

References:
Law on Licenses and Permissions, 2005
Law on Medical and Pharmaceutical Licensing, 2003

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:
There are no clear rules on health requirements. They are non-predictable and non-transparent and depend on a vision of individual ministers of deputies.

References:
Law on Licenses and Permissions, 2005

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO
Comments:
There are no clear rules on health requirements.

References:
Law on Licenses and Permissions, 2005

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

0

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100  75  50  25  0

Comments:
They cannot be performed in a uniform manner, as there is no uniform regulation. Rules and procedures vary from one region to another.
The problem is the selective nature of inspections. Most often than not they are initiated for pressing businessmen with different purposes: extortion of money for the party, transfer of property to other people more loyal to the government, or, as it was the case with Mr. Vazagashvili, simply for making his life harder.
He is the father of young man brutally killed by the police in the middle of the day. As the incident sparred a lot of public outrage, the government decided to go after his father and silence him.

References:
See reports of the Public Defender of Georgia, 2007, and first half of the 2008, about misuse of power.
See media reports on inspection at the shops of Mr. Vazagashvili, spring 2008

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.
72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

Comments:
Their inspections cannot be performed in a uniform manner, as there is no uniform regulation. There is no transparency in regulations. There have been no reports of regular inspections. There is very little in the way of comprehensive statistics or studies of such inspections. The case of the wine makers from 2006 is still under investigation. They were fined and their property confiscated due to the violation of sanitary, environmental and some administrative regulations.

References:
There have been no media reports.

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

Comments:
Their inspections cannot be performed in a uniform manner, as there is no uniform regulation. Rules and procedures vary from one region to another. The problem is the selective nature of inspections. Most often than not they are initiated for pressing businessmen with different purposes: extortion of money for the party, transfer of property to other people more loyal to the government, or, as it was the case with Mr. Vazagashvili, simply for making his life harder. He is the father of young man brutally killed by the police in the middle of the day. As the incident sparked a lot of public outrage, the government decided to go after his father and silence him.

References:
See reports of the Public Defender of Georgia from 2007 and the first part of 2008
Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. Anti-Corruption Law

73. Is there legislation criminalizing corruption?

89

73a. In law, attempted corruption is illegal.

References:
Criminal Code of Georgia, arts. 338, 339

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO
Comments:
Extortion is a crime under the Criminal Code of Georgia (art.181), but it is not related to the anti-corruption crimes and measures. The use of public office for this purpose, or withholding a punishment, are not defined as qualifying points for the crime.

References:
Criminal Code of Georgia, art.181

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES  |  NO

References:
Criminal Code of Georgia, art. 339

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES  |  NO

References:
Criminal Code of Georgia, art. 338

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.
<table>
<thead>
<tr>
<th>Clause</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td><strong>Comments:</strong></td>
<td>There is a clarification that the bribery clause covers foreign nationals as well.</td>
<td></td>
</tr>
<tr>
<td><strong>References:</strong></td>
<td>Criminal Code of Georgia; arts. 338 and 339</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>A YES score is earned if bribing a foreign official is illegal.</td>
<td></td>
</tr>
<tr>
<td>NO</td>
<td>A NO score is earned if this is not illegal.</td>
<td></td>
</tr>
<tr>
<td>73f. In law, using public resources for private gain is illegal.</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td><strong>References:</strong></td>
<td>Criminal Code of Georgia, art. 332</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>A YES score is earned if using public resources for private gain is illegal.</td>
<td></td>
</tr>
<tr>
<td>NO</td>
<td>A NO score is earned if this is not illegal.</td>
<td></td>
</tr>
<tr>
<td>73g. In law, using confidential state information for private gain is illegal.</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td><strong>References:</strong></td>
<td>Criminal Code of Georgia, arts. 332, 333</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>A YES score is earned if using confidential state information for private gain is illegal.</td>
<td></td>
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<tr>
<td>NO</td>
<td>A NO score is earned if this is not illegal.</td>
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<tr>
<td>73h. In law, money laundering is illegal.</td>
<td>YES</td>
<td>NO</td>
</tr>
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</table>
### Money Laundering

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
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</table>

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
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</table>

### Organized Crime

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

### Anti-Corruption Agency

75. Is the anti-corruption agency effective?

0

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.
References:
There is no such agency.

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

References:
There is no special agency.

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:
No such agency exists apart from the General Prosecutor’s Office. The prosecutor can be removed at any time at the discretion of the president.
The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

The director(s) can in some cases be removed through a combination of official or unofficial pressure.

The director(s) can be removed at the will of political leadership.

In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

50: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.
25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100 | 75 | 50 | 25 | 0

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100 | 75 | 50 | 25 | 0

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.
75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

| 100 | 75 | 50 | 25 | 0 |

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

| 100 | 75 | 50 | 25 | 0 |

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?
76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

References:
There is no independent, special anti-corruption agency or collection of agencies/entities.

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.
74. Is there an agency (or group of agencies) with a legal mandate to address corruption?

0

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

References:
No special agency

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

0

VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

58

77a. In law, there is a general right of appeal.

YES | NO

References:
Constitution of Georgia, art.42;
Law on Supreme Court
Code of Criminal Procedure;
Code of Civil Procedure;
Code of Administrative Procedure;

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.
NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.</td>
</tr>
<tr>
<td>75</td>
<td>Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.</td>
</tr>
<tr>
<td>50</td>
<td>Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
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</tbody>
</table>

Comments:
Normally, the legal time frame is violated, for a number of reasons: lack of judges, ongoing reform of the Judiciary related to the frequent change of premises (e.g. Tbilisi Criminal court has changed its building three times during the last year and a half), lack of professionalism, impunity on the side of judges, etc.

References:
See Annual report of the Public Defender of Georgia to the Parliament;
See 2007 HRW report on Judiciary;
See US State department HR report, chapter on Judiciary
See report of the Georgian Young Lawyers’ Association on the Right to Fair Trail

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>100</td>
<td>In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees are not a barrier to appeals.</td>
</tr>
<tr>
<td>75</td>
<td></td>
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<tr>
<td>50</td>
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<td>25</td>
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</table>

Comments:
Court fees have dramatically increased during the last year, despite harsh attack from the opposition and HR groups. Only freedom of information cases are heard at low or no cost.

References:
Laws of Georgia court fees
Media reports on the increase of court fees. See newspapers Rezonansi, Alia, summer 2007
See report on Accessibility of courts by Human Rights Information and Documentation Center
In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees present somewhat of a barrier to pursuing appeal.

The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorneys fees greatly discourage the use of the appeals process.

78. Do judgments in the criminal system follow written law?

78. In practice, do judgments in the criminal system follow written law?

Comments:
The independence of the judiciary is still the most painful issue in Georgia. In most cases, judgments are given according to personal will, rather than based on the facts of the case and by the law. There are reports of various cases where judgments were politically motivated. Expulsion (by law) of video and audio recording possibilities from courts has increased suspicion and distrust towards the judiciary even more.

References:
See HRW reports on Georgia;
See Annual Report of the Public Defender of Georgia to the Parliament

As Georgia reforms, judiciary under scrutiny”. The treason verdict of opposition leader Maia Topuria, now under appeal, is seen as a test of the ex-Soviet republic's efforts to improve its courts. By Daria Vaisman, Correspondent of The Christian Science Monitor, Sept. 17, 2007

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. Are judicial decisions enforced by the state?
79. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**References:**
See regular statistics reports in the newspaper 24 Hours”, which gives a rather negative balance and best shows the problem
See report on execution of judgments by the minister of Justice to the Parliament, June 2008 hearings,
at [http://www.parliament.ge](http://www.parliament.ge)

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

56

80a. In law, the independence of the judiciary is guaranteed.

**YES** | **NO**

**Comments:**
Institutional guarantees are in the constitution and in laws. There are some minor loopholes in laws, but they do not create any fundamental problem.
The problems with the judiciary are due to the lack of the rule of law and the so-called telephone justice."

**References:**
Constitution of Georgia; Chapter Judicial Branch of Power

**YES**: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the
NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:
There is a strong belief in Georgia that the Judiciary is under the political control of the executive, and that all disloyal judges have been either leaving the bench voluntarily or have been expelled.

References:
CDL-AD(2007)009 Opinion on the Law on Disciplinary Responsibility and Disciplinary Prosecution of Judges of Common Courts of Georgia, adopted by the Venice Commission at its 70th Plenary Session (Venice, March 16-17, 2007);
CDL(2007)020 Comments on the Law of Georgia on Disciplinary Responsibility and Disciplinary Prosecution of Judges of Common Courts (A. Nussberger);
See numerous publications on the case of dismissed Supreme Court judges: Gvenetadze, Turava and others.

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

References:
Law on Distribution of Cases within the Judicial System. On the level of law there is no problem with distribution of cases. We have a whole separate law for this purpose and it makes system clear.

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.
NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:
The procedure is unclear. The executive is directly involved.

References:

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:
There have been no reports.

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.
YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge’s involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

79

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

References:
There have been no media reports. No facts are known.

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.
References:
The problem has not been reported. No division of that type exists in Georgia.

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

Comments:
The law applies only to a limited number of cases.

References:
Criminal Code of Georgia
Law on Public Defender

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.
Comments:
The problem is mainly addressed by NGOs which do not get any support from the government. As for state services, Public Defenders offices all over the country have been created for free legal aid, but the law limits their capacity to minor cases, thus turning these offices ineffective.

References:
Interview with the chairman of the Georgian Young Lawyers Association, one of the initiators of the free legal aid services in Georgia
Law on Legal aid

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

References:
There have been no reports of problems for middle class citizens. Citizens are either exempt from court fees or pay symbolic fees in most cases, except for contract cases.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorneys fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorneys fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.
Comments:
This is not an issue of judgment or opinion. The problem is created by the law, as all fees and rules are prescribed there. Affordability depends on the type of suit and court institution. Retail businesses can easily bring constitutional or freedom of information cases. Those are basically free. However, as court fees are rather high for certain types of lawsuits, e.g., tax claims, contracts or other civil procedure matters, they might hesitate to start a case. Fees are usually counted as a percentage of the cost of the suit, but costs are rather hypothetical and small business owners are not able to cover them.

References:
Civil Procedures Code of Georgia
Report of the EU Justice Team on court fees

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorneys fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

Comments:
Problems are mainly associated with high court fees rather than geographic locations.

References:
There have been no media reports.

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.
VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:
Party loyalty and kinship are the main criteria for high, level or mid-career appointments. At the lowest level, some procedures are followed. The age (i.e. no experience and no legal education) of a big number of high and mid-level officials proves these facts.

References:
Newspaper Rezonansi\textsuperscript{"} regularly publishes trees of kinship of the current government and key law enforcement officials, as they change;
Interview with the chairman of the Georgian Young Lawyers\textquotesingle Association, Giorgi Chkheidze,

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:
Almost a fourth of the budget and non-budget revenues (international aid, non-budgetary fund for law enforcement) is going to
the police and Prosecutor’s office.

References:
See Law on state budget of Georgia;
See Decree on Tbilisi Budget;
Report on spending budget funds by Georgian Young Lawyers’ Association at [http://www.gyla.ge/foia](http://www.gyla.ge/foia)

| 100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate. |
| 75: |
| 50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate. |
| 25: |
| 0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency’s ability to fulfill its mandate. |

83c. In practice, the law enforcement agency is protected from political interference.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Law enforcement is the main instrument for political influence over the public, civil society and political opposition. It is the main oppressive instrument of the state. One of the deepest beliefs in Georgia is that every mobile phone is tapped”; true or not, the perception is there and it already speaks for the influence of the police over the people.

References:
Georgia: A Flickering Beacon of Democracy” – Human Rights in Georgia in 2007 by HRIDC of Georgia;
“Assessment of the November Events in Georgia, 2007”
“The Velvet Downfall, Human Rights in Georgia, 2007”

Annual report of the Public Defender to Parliament, last heard in June 2008

| 100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation. |
| 75: |
| 50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations. |
| 25: |
| 0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government. |
84. Can law enforcement officials be held accountable for their actions?

63

84a. In law, there is an independent mechanism for citizens to complain about police action.

**YES** | **NO**

Comments:
Police and Prosecutor’s office both have a General Inspection unit, where people can bring complaints.

References:
Criminal Procedure Code
Law on Police

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**NO:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen’s complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
The procedure is slow and useless. I have a personal experience while filing cases against police officials on corruption and human rights abuses — for two years they have been under hidden investigation, but I do not have the right to get information while the cases are pending.

References:
Georgia: A Flickering Beacon of Democracy” – Human Rights in Georgia in 2007 by HRIDC of Georgia
Annual report of the Public Defender to Parliament, last heard in June 2008

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.
25:
0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:
Investigations are started by the General Inspection. If problems are discovered, they are transferred to the Department for the Defense of Constitutional Order.

References:
Law on Police
Criminal Procedure Code

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:
The problem with such investigations and arrests is that they concern only low ranking police officials; a case is never fully investigated to find a lead on higher levels. Those cases are used as PR propaganda. Multiple press conferences portray the fight against corruption by the Georgian police, and show confessions. Trust and confidence in the police are disappearing again, as shown by polls.

References:
The latest media reports from the week of Sept. 2, 2008, on the arrests of police officials on corruption charges
IRI Polls June 2008

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or
occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:
Criminal Code of Georgia

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

Comments:
Chapter 10 of the Report of the Public Defender Ministry of Interior and Human Rights describes numerous cases of impunity exercised by police officials. The most famous cases in Georgia are those of street violence, which claimed young people’s lives. None of those cases have been investigated properly and no high officials have been punished.

In these cases and much more to be mentioned, law enforcement officials in charge were not punished. The fact that some policeman are in prison does not mean that impunity is gone. The problem is not only the fact that real perpetrators have never been punished, but even those who have been arrested and sentenced are not serving their prison sentences for a crime they have committed. Apart from that, it took thousands of people to protest in the streets for months for forcing prosecutor’s office to start investigation and get someone punished. There are still dozens of cases were high officials are involved but no prosecution was ever initiated.

The case of kidnapping and beating of Koba Davitashvili might serve as one of the best case to show the level of impunity in Georgia. Koba Davitashvili is an opposition politician who was kidnapped on 7th of November, 2007. After the involvement of the speaker of parliament he was brought to the Military Hospital in Gori nearly dead. Military hospital is a closed establishment, equipped with cameras and only authorized personal has an access to it. Despite of it case has never been closed, perpetrators never identified and we do not even know if the case is under investigation. Even in cases I have mentioned initially only on two occasions we have a lower level policeman punished, while there were around 37 cases that raise suspicion, according to human rights groups, facts gathered by the journalistic investigation and well documented reports of the public defender of Georgia.

References:
See Georgia: A Flickering Beacon of Democracy – Human Rights in Georgia in 2007; report of the HRIDC of Georgia,
100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.