

Georgia After the ‘Rose Revolution’

The theme of this book is ‘Georgian Security Sector Governance after the ‘Rose Revolution’’. After the downfall of Shevardnadze’s authoritarian regime, apostrophied by many Western observers as ‘mild’, and therefore worthy of support, there have been definite changes in how security is perceived. ‘Good governance’ means introducing fundamental political changes according to the principles and practices of democracy. Although the countries that we recognize as democratic do not have completely identical political mechanisms, methods and procedures for governance, it is not difficult to determine whether a political system is democratic or not. For Georgia, as for all transition countries, the first important matter on the reform agenda was setting up the structure of governance, that is, writing constitutions and laws, erecting political institutions, and making them work. External experts who assess how well security sector governance functions in those countries designated as ‘new democracies’ sometimes neglect to take into account the fact that they indeed are new; that they have not had the many years, even many centuries, that the Western countries have had to develop the ways and means, the habits and customs, of their Executives and Legislatures.

The notion of what comprises the security sector is enlarging. It is no longer understood in terms of traditional military-political institutions such as the armed forces, intelligence, and command and control systems. A publication *Understanding and Supporting Security Sector Reform* prepared by the Department for International Development of the United Kingdom says that ‘in broad terms the security sector comprises all those responsible for protecting the state and communities within it’. Accordingly, police, justice, public and nongovernmental organizations can also be included in the security actor’s list. As the understanding of security sector governance, so also has the understanding of security policy been broadened over the years. Security is the field of endeavour not only for the national Defence Ministries and Security Councils. International organizations and various development agencies also pay attention to it. If a country intends to become a member in full standing of the Euro-Atlantic community—and Georgia has declared its intent to do that—it has to have good governance over the security sector. Georgia, therefore, has to take into account internationally accepted notions on what security is and how it is properly governed.

In Georgia, the security sector and its governance have encountered particular problems which arise from its history and recent politics. There are parts of the country that have set themselves up as separate entities professing to enjoy sovereign rights, and that has led to clashes and the presence of international organizations. Georgia’s

domestic political development has been interrupted by a military coup, followed by the rule of Shevardnadze, which was terminated by a mass popular movement, the 'Rose Revolution'. How Shevardnadze's rule came to its end was seen worldwide, but Georgia still has to cope with its heritage, including insidious and far-reaching corruption which hindered and distorted the development of democratic governance in every political endeavour, notably in the security sector.

After the Revolution, an analysis of Georgia's security sector stated that when looking at the various stages of the reform process in Georgia that:

The requirements for the various sectors are fairly clear. In the military it requires a move from quantity to quality, a reduction of numbers and an enhancement of capability to provide a more flexible military which is interoperable with NATO and with other western forces. In the Interior Ministry it means moving from Interior troops in the military model to a gendarmerie force which is essentially an enhanced police component. In border security it means changing the military Border Guards to a largely civilianized security agency for border security and control, which is again essentially a form of police control. In the Security Ministry it means moving to a plain-clothes agency basis, with no place in the prosecuting procedures. The thread which runs through all these requirements is that of demilitarization, for security is not just about tanks in the modern era. It also means the acceptance of some form of democratic oversight and an understanding of how to apply that without it turning into an unreasonable and potentially dangerous form of political control'.¹

The rejection of the politics of manipulation and deceit, steeped in corrupt practices, was the reason for the 'Rose Revolution'. In order to investigate what has taken place after it, the authors of the study, necessarily, have to take into account what happened before, because Shevardnadze during his years in power created a political structure which had to be dismantled. This book has four parts. It starts with democracy, security, and reform which considers the structure of political framework, the status of reform when the new Government assumed office, and achievements – because there were positive developments and an initial movement in the right direction. The book then continues with a section on political elites, the media, and non-governmental organisations, that is, some of the governmental and non-governmental actors who have moved reform forward or deterred it, before moving on to deal with the presence of international organisations and foreign presence. The study concludes with an assessment of the progress of transformation and Georgia's progress

¹ Sir Garry Johnson, 'Security Sector Governance in Southern Caucasus,' Anja H. Ebnöther and Gustav E. Gustenau eds., *Security Sector Governance in Southern Caucasus, Challenges and Visions* (Vienna and Geneva: DCAF, 2004), p. 53.

toward the West as well as the eastwards thrust of NATO and the EU toward the Black Sea region.

Democracy, Security, and Reform

The survey of political and security transformation opens with Mindia Vashakmadze's 'Democracy and Security: The Legal Framework of Security Sector Governance'. Georgia's governance framework has been built over a number of years and in separate stages; the most recent one came with amendments to the Constitution made in February of 2004. The governance system was built during politically troubled times and it has been wrought by domestic events. Georgia has a presidential political system, not a parliamentary one, but so do some of the other transition states. In such systems, the powers of the Executive need to be balanced by the powers of the Legislature. During the years before the 'Rose Revolution', Shevardnadze's personal and arbitrary decisions led to many acute problems in state-building, the establishment of democracy, and the approach to dealing with security threats.

In terms of civilian control over the military, Georgia's legal structure is strong. However, in the main, it is Presidential control. The parliamentary sector within the legal framework is not strong. It is difficult to balance a strong Executive if democratic control; accountability in particular, is not institutionalised through an effective Parliament. Furthermore, even well constructed and balanced Constitutions supplemented by various laws concerning security sector governance are not enough to establish effective democratic control over security and defence in the new democracies. The Georgian Parliament and other parts of the Government have had a difficult time in implementing the everyday management of governance - the mechanisms, routines, and habits of parliamentary procedure and work. Vashakmadze explores Georgia's experience, placing it against the background of recent developments in other fledgling legislatures of the new democracies, while focusing attention on Georgia's particular constitutional provisions and the political weaknesses that arise from them.

Upon assuming office, Georgia's new Government undertook broad and far-reaching reform of the security sector. There were Constitutional amendments. In the transition states, Constitutions need to provide, among other things, a clear hierarchy of civilian control, and define the authority of the Head of the State, the Head of the Government, and the responsibilities of senior civilians in Ministries and institutions of the security establishment. The role of the parliamentary sector is not large, and the recent Constitutional amendments of 2004 did not tip the balance of policy making toward strengthening the Parliament. There have, however, been changes in the Ministries of Defence, Interior, the Border Guards, and intelligence organisations.

To some extent, democratic control and reform of security sector governance are a domestic necessity; to some extent, there are external policy considerations. Georgia's new Government has declared a firm course toward NATO and it has EU membership in mind. Both of these

institutions pay attention to security and defence transformation and both are concerned with the political and democratic side of reform. They observe who carries out security governance reforms and how, not just the results. NATO and the EU examine the role of Parliaments in defence and security affairs, how domestic policies strengthen democracy and the rule of law, the extent of transparency and accountability, and the observance of the principle of separation of powers and judicial independence. Georgia has to observe these requirements.

The development of Georgia's security sector governance is a field that is not easy to explore. First, there is a shortage of research, analysis, and publications, at least little on the various aspects and elements influencing the security sector and its reform. Second, what research there is on issues relevant to security sector governance has the appearance of a patch-work quilt. There is no comprehensive assessment; studies have mainly focused on separate aspects; the various threads are not brought together, at least not in a way which would allow an evaluation of the overall situation of governance. In order to bring the threads together and to gain a basic overview on the current state of security sector reform in Georgia, a stock taking project, based on expert interviews, was launched in September 2002. Up-dates were made continuously, the latest carried out in January 2004. The result of this endeavour is given in two Chapters of this book by Antje Fritz.

The first one is 'Security Sector Reform in Georgia: Status'. It is based on the interviews and several questionnaires. The evaluation presented by the study is a selection of general questions on the current state of security sector reform in Georgia, prospects for the upcoming years, and on recommendations and priorities seen by the experts in view of the reform process. The objective was to get a broad overview on the prospects of security sector reform in Georgia by Georgian experts who work in the field of security policy. The picture given is deliberately focused on those factors and aspects of security sector reform, which are - according to the interviewees - currently relevant and therefore have an impact on the ongoing developments.

The study provides us with a range of Georgian views, varied and informal, not policy statements issued by policy makers or summaries by outside observers. As could be expected, the respondents find difficulties and weaknesses in the status of the country's security sector governance. Nonetheless, they also find achievements and positive trends, which are described in a following chapter 'Security Sector Governance: Achievements'. Georgia faces major, evident challenges and obstacles. But there have been positive developments and steps taken in the right direction. In assessing them, the study finds four significant trends: a perceptible tendency towards transparency enhancement, a positive and ongoing process in training and professionalisation of the Armed Forces; a slow but promising and sustained system change in overall security governance; and efforts to adapt and coordinate international assistance.

As a positive starting point, none of the challenges to security sector reform are seen by the Georgians as insurmountable problems,

whereas in the recent Soviet past – the memory of which has not faded much – they would have been impossible to deal with. As is pointed out by a member of the Defence and Security Committee of Georgia's Parliament interviewed for the 'Study', a very important stage has already been reached simply because threats and challenges are dealt with as distinct and transparent issues of political concern, they are being brought to light and public recognition, and therefore, once identified, they need to be addressed and tackled.

Civil Society, Media, Elites

When the Soviet Union disintegrated, its highly structured internal controlling institution, the Communist Party, fell apart. Nonetheless, when Georgia's new political and economic structure was assembled, much of it included segments of the old one. In Georgia, as in many other former Soviet republics, 'The "powers" themselves in substantial part comprise the descendants or associates of people who had power before, not to say the products of elite institutions and the mentalities which they instilled. In these conditions it is not surprising – indeed it is almost inevitable – that "democracy" is limited to elections and that elections have been managed and manipulated'.² This was said about Ukraine but it is relevant to Georgia as well. However, the observation was made before the 'Rose' and 'Orange' Revolutions and as we know in both countries the attempt of the 'powers' to manage and manipulate elections failed utterly.

Segments of the old elites survived after 1991, although in altered forms and a new guise. The subject is explored by Zurab Chiabershvili and Gigi Tevzadze in a Chapter on 'Power Elites'. Shevardnadze was a prominent member of the old Soviet *nomenklatura*, from 1972-1985 the First Secretary of the Central Committee of the Communist Party in Georgia, thereafter the Minister of Foreign Affairs of the Soviet Union. As the President of Georgia from 1995 until the 'Rose Revolution' he had considerable Presidential powers, he augmented them by political manoeuvres, and he built a secretive, convoluted 'Shevardnadze clan' as a political support organisation. Furthermore, in the first years of independence, the younger members of the former *nomenklatura* of the organisationally-defunct *Komsomol* managed to get control over the banking sector and became, to a large extent, Georgia's economic elite.

There however has been change as well as continuity. Under Shevardnadze Georgia lived in political and social setting that certainly was different from the previous one. The Chapter 'Power Elites' explores the emergence of elites in economy, in the state administration, as regional elites, and as political parties and groups in Georgia's Parliament. The elites inhabited a structure that was built during the time of Shevardnadze, much of it by President himself and his cohorts. Under the post-Communist banners of 'capitalism' and 'market reform', the emerging elite networks transformed old bureaucratic power into

² James Sherr, *Security, Democracy, and 'Civil Democratic Control' of Armed Forces in Ukraine* Conflict Studies Research Centre (January 2001), p. 2.

financial power. Shevardnadze's structure, the establishment that he built, was swept away by the Rose Revolution. Twelve years before, so was the Soviet structure although its remnants were restructured. Georgia again might experience transformation and continuity.

A study 'State-Building in Georgia: Unfinished and at Risk?' by the Netherlands Clingendael Institute of International Relations describes the time and political conditions at the point of transition. The opposition parties, joined by the struggle against Shevardnadze, needed to sharpen their programmatic content and profile and consolidate their coalition within a short period of time. This also implied a vision for elaborating an economic reform strategy, which would have taken time even in calm working conditions. However, so tells the study 'State-Building':

In the elections, opposition parties—not entirely innocent of fraud themselves during the previous election—fought *around* the power apparatus in competition against each other. This obstructed rather than progressed pluralist competition. Anti-Shevardnadze slogans were principally a means of securing public support.... Only two opposition parties, United Democrats and the National Movement, were credible opposition parties; most of the others would have willingly agreed to enter into any coalition that would ensure their participation in government'.³

When the ballots were counted, the credible opposition had pushed opportunism as well as Shevardnadze from the political stage.

If we consider the spectrum of Georgia's society and organisations engaged in political and public affairs, there were, nonetheless, definite changes from 1991 onwards. Two new entities appeared—organisations that we can designate political and social elites—the media and non-governmental organisations. The media no longer were under government control. Non-governmental organisations could act independently. Their influence in politics and in security sector governance is investigated in two Chapters by Marina Kokashvili, 'The Mass Media and Politics in Georgia' and Duncan Hiscock, 'Domestic and International NGOs and Security Sector Governance in Georgia'.

The political role of mass media in transition countries is often analysed alongside that of parliaments, executives, political parties and elections. Indeed, media has been quite influential in determining the type of political regime, particularly during the period of transition to democracy in the countries of Central-Eastern Europe. The opportunities for the media to influence the political climate have appeared as a result of the diminishing role of political parties as intermediaries between state elites and citizens, on the one hand, and increasing influence of international factors on the domestic political arena, on the other. Although it is hard to quantify the direct impact of media on political behaviour and decision-making processes, it is clear that media fills

³ Martina Huber, *State-Building in Georgia: Unfinished and at Risk?* (Netherlands Institute of International Relations 'Clingendael', February 2004), p. 27.

important gaps in social and political communication, and can serve as a powerful factor in consolidating democracy.

As was the case of Georgia's old Soviet political structure, the media structure — uniform, Communist Party controlled, state funded — also disintegrated and then re-emerged from the rubble. A large part of the media, notably television, remained in the hands of the state but it no longer was an outlet of overt propaganda. For the rest of it, as 'Mass Media and Politics' relates, the new arrangements were made in a different fashion. The Government no longer controls the media, although there are state broadcasts, although it has attempted to influence it through official and illicit means. Much of the media is in the hands of private controllers. In this sense, the media are free, at least from state control. However, there are further questions, as to the influence of the media, particularly in relationship to democracy building. Kokashvili's study explores this issue, concluding with media power and influence in the turbulent political events of 2003 and 2004.

The forced but nonetheless peaceful removal of Shevardnadze was a strong signal of the power of civil society as a political determinant in Georgia. The independent media are reckoned to be a part of civil society and, alongside the media, Georgia has developed other societal sectors or groups. Duncan Hiscock considers the role of non-government organisations, the NGOs, in security sector governance in Georgia. As the country continues to undergo huge changes and it is difficult to predict exactly how things will look once the dust has settled. The 'Rose Revolution' of November 2003 and the subsequent election of Mikhail Saakashvili as President in January 2004 led to a large number of new appointments at both ministerial and senior official level. Many of those who entered the government have close links to civil society actors; indeed, a lot of them previously worked for NGOs themselves.

Improved co-operation between the state and civil society is clearly desirable in a period of large-scale reform. The new administration has initiated reforms to the Ministries of the Interior, Defence, and State Security significantly altering the form and quality of governance in the security sector. Several NGO representatives have been active, both formally and informally, advising those who are designing and implementing the reforms. Some are from organisations that have in some way focused on military and security matters in the past. Others are from organisations that may not have worked specifically on such issues but are concerned to see that reforms promoting democracy, good governance and the rule of law apply to the security sector

Hiscock provides the reader a summary of what Georgia's NGOs have done so far in the field of security sector governance, gives an overview of the direction of their efforts, and identifies some of those which are currently involved in advising on or monitoring the emerging reforms. The focus of the chapter is largely on the interaction between the national government and civil society in Tbilisi. However, attention is given to the situation in three other areas which have specific security dynamics: the autonomous region of Adjara, and the separatist regions

of Abkhazia and South Ossetia. This acquaints the reader with the situation across the territory that is formally recognised as belonging to the state of Georgia.

International Presence and Foreign Influence

Georgia has been troubled by ethnic strife and breakaway territories. Kornely Kakachia's chapter on 'Problems of Post-Conflict Public Security Management in Georgia' seeks to establish how democratic security sector governance can be made possible under the given circumstances. International organisations, the UN and OSCE, have attempted to alleviate the conflicts. There are also foreign troops deployed — Russian ones, though political correctness would make it necessary to call them 'CIS peacekeepers' (with not a single non-Russian present) — whose presence has not been welcomed by the Georgians. In particular, opposition to Russia's presence come from the new Government. Three chapters in this section are devoted to the conflicts, unsolved and solved; the presence and work of international organisations, successful and unsuccessful; and the stationing of Russian troops, examining the origins of their presence, their legitimacy, and prospects for being stationed in Georgia.

The map of the Southern Caucasus, if drawn along the lines of territories inhabited by various national groups, is among the most complex of the former Soviet Union. The political consequences are that within Georgia one can find the Autonomous Republic of Abkhazia, the Autonomous Republic of Adjara (which, however, recently lost its long-time political leader and status), and the Autonomous Region of South Ossetia. As related by Heidemaria Gürer in the Chapter on 'International Organisations and National Representatives in Georgia: History, Meaning, and Purpose of Mediation', the reasons for the ethnic variety and political divisiveness go far back into history. Sometimes they reach very far back into the past and through many centuries; at other times, to more recent and deliberate policies of the Soviet Union. The consequence of these national, religious, and cultural differences and divisions has, on occasions, brought conflicts. Neither resolved by Georgia nor by outside forces, the aftermath of the 'Rose Revolution' did make a difference in one place: Adjara.

The quarrel between Adjara and the Georgian Government never turned into a military clash like the ones in Abkhazia or South-Ossetia. Adjara was a domestic political issue. Its 'President' Abashidze ruled it as his own private political preserve. Abashidze's own political party, 'Revival' (or 'Renaissance') at times was the second largest party in Georgia's Parliament. On the surface, it claimed to oppose Shevardnadze; covertly it was in alliance with him. However, as the author wryly remarks: '[Abashidze] never went to Tbilisi out of fear of being murdered'. He would survive the Rose Revolution and Shevardnadze's fall only by a few months, there was a smaller upsurge in Adjara that ended with the ouster of Abashidze who since then has lived in Russia, safe and sound, once he got out of Georgia.

Although the situation in Adjara has settled down, conflicts in Abkhazia and South Ossetia have been more intractable, the latter one flaring up again in 2004. Describing their course and current status, the author concludes with a question: What is the sense of conflict solution mechanisms introduced by international organisations and how successful have they been in the Southern Caucasus? So far their success lies in the fact that larger military clashes could be contained; the conflicts were frozen. But can one characterize international efforts as successful if after twelve years no permanent solution is in sight? Or are the conflicting parties themselves averse to permanent solutions, fearing that they might have to compromise too much and would be opposed by their population or electorate? The status quo gives Abkhazia and South Ossetia the possibility to claim that they are independent. Although they are not recognised as such by the international community, they are able to exercise some of the powers of sovereignty. Moreover, unresolved conflicts can be used by the involved parties as a permanent excuse for not dealing with other detrimental domestic developments.

The obdurate separatist movement in Abkhazia is one in which the international community has been deeply involved. The background of the conflict, the nature of different institutions' involvement, and an assessment of the likelihood of a solution is related in 'International Military Conflict Prevention, Observer Missions, and Military Cooperation in Georgia' by Axel Wohlgemuth. During Soviet rule, Abkhazia was an Autonomous Republic with a population of some 530,000 people, of whom Georgians were nearly half of the population. Only some 18 per cent were ethnic Abkhaz, with Armenians and Russians as the other two most numerous groups. When the Soviet Union crumbled, Abkhazia demanded independence from Georgia and open clashes began in August 1992. By September 1993 the Abkhaz side, with external assistance, won the conflict. At least half of the population — some 300,000 persons in all — were displaced to other areas of Georgia or abroad. Abkhazia's independent status has not been recognised by the international community.

Abkhazia is a tangle of problems involving conflict, refugees, and its future political status. The international community has been engaged there since August 1993, when a United Nations Observer Mission in Georgia (UNOMIG) was established by a Security Council Resolution. Efforts by the United Nations and the Russian Federation to have a cease fire led to "Agreement on a Ceasefire and Separation of Forces" on May 1994. UNOMIG's work is based on one of the most extensive mandates of all UN peace missions ranging from the observation of the ceasefire to a comprehensive political settlement of the conflict.

The overarching goal of the peace process is a comprehensive settlement. It would define the political status of Abkhazia within the state of Georgia. It would help bring about a safe return of refugees. Despite all efforts, no settlement has been achieved. Confrontational elements remain and small successes do not make a solution. It would be a naïve hope, Wohlgemuth concludes, for a quick end to the mission. Hopes for progress still lie on the shoulders of the Abkhaz

administration and the new Georgian President. That said, despite shortcomings, the peace process has had its achievements. The two sides are talking, directly and frequently, on a wide variety of issues which they did not do several years ago. All the necessary mechanisms to introduce change are at hand. What is required is sufficient political will on the part of the two sides to make the best use of these instruments in the context of firm public security guarantees to melt a frozen conflict and move toward a settlement.

The presence of foreign military forces on Georgia's territory has been a persistent security and political problem since it achieved independence. The foreign forces in question are Russian ones and the pressing question to Georgians is: when will they leave? The question remains unanswered. Mindia Vashakmadze considers the origins and legality of their presence in a Chapter 'Deployment of Foreign Forces in Georgia: Status, Prospects, Legitimacy'. Negotiations over their future have been going on for years and since the 'Rose Revolution' have moved closer to the centre of the stage. Their continuing presence comes from political stratagems and their aim is pursuing sphere of influence policies. Another reason for their deployment comes from security concerns; some of them function as peacekeeping forces. Usually, the case of Russia in Georgia is placed in the framework of regional security and examined along the lines of power politics — Russia *versus* Georgia. But it also is inextricably linked with issues of legitimacy and national sovereignty.

Vashakmadze therefore deals with the deployment of Russian forces in Georgia by examining the legitimacy of their *de facto* presence, their current status and prospects of a prolonged presence. The legality of the deployment of foreign forces in Georgia has been repeatedly called into question by the Georgian authorities, especially by the Parliament. Georgia's pursuit of policy *vis-à-vis* Moscow concerning Russian military deployment - or withdrawal - has not however been consistent. President Shevardnadze's tactical manoeuvres shifted, they were not straightforward, but the new Government unfortunately inherited the political arrangements that he made.

Legality in international relations must, as a rule, reflect agreed-upon national policy. In this regard, as Vashakmadze argues, when it comes to a long-term military presence of foreign forces of one country in the territory of another, sovereign, or the receiving state, all aspects of international law have direct relevance. A thorough examination of the legal case which can be presented by Georgian authorities would answer the question: is the status and presence of foreign troops legitimate or not? The consistency of state policy (which, as it happens, was policy chosen by Shevardnadze) must be based upon the principle of the free and full consent of the host state to foreign military presence. Inconsistencies in the state's position may have come about as the result of external factors such as the use or threat of force by a foreign power or extensive political and economic pressure. Furthermore, inconsistencies can arise from internal factors, in particular from a lack of political consensus within the state. In this respect, the exclusion of the principal security sector actors, especially the Parliament, from the

formation of the nation's policy on foreign military presence, can be considered to be a reason for invalidating agreements struck by the President. Vashakmadze concludes that Georgia's Parliament never actually consented to foreign troop presence. Thereby, Russia stands on dubious legal ground.

Prospects and Conclusions: From Revolution to Reform

A new Government has been in power for over a year. It has had time to decide on its policy priorities, develop plans, publish a National Security Policy Document, and implement changes in the security sector. Writing on the 'Emerging Security Sector Governance in Georgia: Problems and Prospects', Dov Lynch observes that even though the Republic of Georgia has had an independent existence for well over a decade, it remains logical to discuss security sector governance as an emerging question. For much of the early 1990s, applying the notion of 'security sector governance' to a state torn by war and barely on its feet would stretch the concept too far. Reform is under way with considerable changes taking place throughout 2004. Saakashvili is struggling within an inherited, misshapen system with peculiar and distorted political 'rules of the game' which materialized under Shevardnadze. The situation is characterised by fragmented and deeply under-funded power agencies, subjective forms of control over them, weak civilian oversight, intense corruption, no legitimacy in society at large, and the absence of a concept of overall reform. Therefore, 'Emerging Security Sector Governance' first delineates the objective difficulties that have affected Georgia's security sector from 1992 onward in order to bring to light the wide range of the dilemma. Second, it examines the nature of 'the security sector game' as it crystallised by the rules of the game during the last years of the Shevardnadze Presidency. Third, it explores the strengths and weaknesses of the first steps taken by the new leadership in 2004 made to change the rules of the game. The concluding section proposes some general principles for reforming the Georgian security sector.

Where should Georgia's transformation head and in what fashion? If Georgia is to move towards healthy reform of the security sector, Lynch writes, the principles can be summed up as follows. The new government must sustain its push for healthy security sector governance relying on its own energy and determination; it should get away from counting on external support for direction and energy. Reform must be comprehensive; it must embrace all parts of the security sector. It must be deep; there must be more to it than personnel changes and cases of corrupt officials legally persecuted; the process must be root-and-branch in its span. Moreover the new government should make clear to the Georgians themselves and to other states and institutions its vision of Georgia's future, how it comprehends and evaluates the main security threats, and how it proposes to respond to them. This requires a National Security Concept, known to and debated by the public. The Concept should eliminate ambiguity and make a new universe of expectations for Georgia's policy in the future clear to all actors,

domestic and foreign. Finally, the new government must pick the right battles for its first year in power in order to sustain popular support and avoid social disenchantment. The main challenges that concern Georgian society are those of welfare, education, healthcare and stability. Settlement of the question of territorial control will be easier once Georgia itself is visibly able to stand on its own.

If there are some principles the Georgians should observe, there are some for the international community as well, Lynch notes. The international community should check and balance the policy directions taken by the new government so that it will retain a focus on reform and the priority of strengthening the institutions of state. The international community needs to rethink the concept of security sector governance to include those elements that are beyond Tbilisi's control, as in Abkhazia, and South Ossetia. Finally, international actors must coordinate their actions amongst themselves in assisting Georgian security sector, in order to achieve a better synergy of effort.

Security sector governance is being dealt with, as described by Shorena Lortkipanidze in 'Security Sector: Initiatives and Activities'. An enhanced political will to implement reforms and to transform the whole political system is definitely present in Georgia today and plays an important role in the creation of a new security environment. The major goal is the formation of security structures, their management, financial support, and the coordination of activities within a framework of democratic control over them. In Georgia security sector reform requires democratic supervision and public support, which in turn calls for an increased sophistication and understanding in these matters in an arena outside the previously closed worlds of the defence and security professionals of the state.

The new leadership made the first steps initiating structural changes in governance without much hesitation. A 'National Security Policy Concept' has been debated and published. The objectives of reorganization have been identified as the establishment of the civilian control of the Ministry of Defence, the streamlining of the Ministry and General Staff, the clear division responsibilities of the functions of Ministry of Defence and General Staff. Reforms in education and decentralization are currently underway. Major internal changes have taken place. The State Department of Border Guards was integrated into the Ministry of Interior. The Intelligence Department was incorporated into the Ministry of State Security. The Military Doctrine, approved by the Parliament, defines military forces of Georgia as follows: the Armed Forces of Georgia, Border Guard Forces, Interior Ministry Troops, and other armed formations.

Jozsef Boda and Kornely Kakachia elaborate in more detail Police and Interior Ministry relevant reforms, areas often neglected by states receiving external security sector reform assistance via 'defence diplomacy' platforms which all too often dwell on the minutiae of defence reform whilst unreformed fiefdoms with untransparent and unaccountable coercive powers are built up elsewhere in the security sector. Notably, in Georgia such problems are already being avoided via a nascent security sector reform programme beyond the defence sphere.

There are many pressing tasks, difficult to accomplish in a short period of time. The lines of responsibility, authority and accountability are not clear or well comprehended. The system of promotions has been centralized in various Ministries. Georgia has not made a transition from the Soviet to the Western approach to defence planning and management and this has been an obstacle to the reforming process. The Armed Forces have suffered from harmful budget shortages.

There have been rapid changes among senior civilians and the military. This has been perceived differently by the society, the media, and the political opposition, with criticism voiced by the latter. The disorder caused by political turbulence and appointments to high state positions by the former revolution activists are two problems that illustrate the issues facing Georgia today. On the one hand, the country's security sector is in immediate need of rapid transformation; on the other, it demands competence in carrying out the required tasks. What little knowledge Georgia's civilians did have of defence planning was coloured by the Soviet heritage. This shortcoming has been the unfortunate situation in every transitional country; in Georgia there has been, and still is, a lack of national governmental capacity, of people with overall competence for defence policy formulation and planning and expertise is needed in ministries, parliamentary committees, and presidential offices.

In many ways the general security situation of Georgia can be said to have improved. But the main concern is to have a thorough assessment of security threats. Piecemeal improvement without an overall framework will not suffice. The major document, a national security concept, has been slow in coming. It is expected by the Parliament and, assuming that it is developed appropriately (previous attempts to generate a national security concept fell far short of what was needed, according to the International Security Advisory Board), security sector governance has to proceed at a measured and certain pace.

Finally, there is the increasing proximity of 'the West' to Georgia described in the concluding chapter 'The West, the Black Sea and Georgia' written by Jan Arveds Trapans. In this study, 'the West' is largely — though not entirely — defined in terms of NATO and the EU. Georgia intends to join both of them and is developing plans and policies for that purpose. Both NATO and the EU are moving eastwards; NATO has reached the Black Sea and the EU presumably will do so as well within a few years. To both of them, security in the countries of the Black Sea area and the South Caucasus is important even if they do not anticipate including the respective countries in their membership soon or, perhaps, not at all.

As NATO and the EU move eastward, their policy makers assess contiguous areas — the Baltic, the Balkans, and the Black Sea areas — in terms of security problems, that is, potential threats emanating from them. Because Georgia is in the South Caucasus and in the Black Sea area, it will be placed in the context of difficulties and threats arising from one area or the other. This is not necessarily to Georgia's disadvantage. If threats are to be removed or at least moderated, it

cannot be accomplished without a Georgia's sustained participation. Both NATO and the EU have developed security sector governance programmes, and an important issue for Georgia's policy makers is to decide on what working relations they can establish with 'the West'.

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The Editors

Chapter 1

Democracy and Security: The Legal Framework of Security Sector Governance

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Introduction

The legal framework of Georgia's security sector governance has been built over a number of years, with the last amendments to the Constitution made in February of 2004. It was constructed during politically troubled times, and the problems in the security sector have shaped the process and results. Following the break-up of Soviet Union in 1991, Georgia became an independent state and had to build up its security sector from scratch. Under the 'Law on the Transitional Period' adopted on December 20, 1990, the National Guard of Georgia was formed, followed by the creation of the Ministry of Defence in 1991¹. However, the first elected President Zviad Gamsakhurdia did not succeed in bringing the paramilitaries under the control of the central government and was not able to consolidate the security sector. The political confrontation between the President and his opponents led to an armed conflict in which the officers of the National Guard were involved on the side of the opposition.

A military coup brought an end to Gamsakhurdia's presidency in January 1992. A Military Council that took over state power and declared the Constitution of the first Georgian Republic (1918-1921) as the supreme law of the land. The Constitution stipulated parliamentary supremacy in security sector governance², but this was far from the reality in the Georgia of 1992. In March 1992, after Shevardnadze returned to Georgia, the Military Council was transformed into a civilian body called the State Council. Representatives of Georgian society were invited to participate in its activities to provide a degree of legitimacy. A new Parliament, elected in October 1992, adopted a 'Law on State Power' on November 10, 1992, establishing a strong legislature. However, the Head of State was at the same time the Speaker of the Parliament, elected directly. Thus, for the next three years the legislature came under the *de facto* control of Shevardnadze.

¹ The Law on the Ministry of Defence adopted on 15th September 1991.

² According to Article 54 of the Constitution, adopted on 21st February 1921, armed forces and other military forces were under the control of the Parliament.

The outbreak of the bloody conflict in Abkhazia from 1992 to 1993 between Georgia's armed forces and local separatists, supported by Russian soldiers and mercenaries, brought Georgia's emerging statehood to the brink of collapse. Not until 1995 Shevardnadze was able to consolidate state power as he subdued uncontrolled military commanders and strengthened the control of the central Government over Georgian paramilitaries³. Between 1992 and 1995 Georgia was a parliamentary republic. The presidential system of government had been discredited by the Gamsakhurdia regime, but the Parliament elected in 1992 proved a weak and politically unreliable institution. Public opinion gradually changed to a belief that only a strong President would be able to lead the country out of the chaos. The adoption of a new Constitution in August 1995 establishing a presidential system marked a significant step towards the development of proper legal tools in respect of security sector governance. Between 1995 and 1999, the Georgian Parliament elected in October 1995 passed the vast majority of laws regulating security sector governance⁴.

Institutional Framework of Security Sector Governance

The Constitution contains a special chapter (Chapter VII) on 'State Defence' and several provisions related to security sector governance. The framers undertook the first deliberate attempt to introduce a separation of power in security sector governance, and to establish a balance between the democratisation and effectiveness of the military based on the rule of law. However, as following experience showed, some fundamental provisions of the Constitution remained at odds with reality. Three main state political entities shared responsibility for security sector governance in the country: the legislature, the executive and the judiciary. Their work was to be supported by state advisory bodies set up in the main by the President, who also is the Head of State.

As matters stand today, the adoption of constitutional amendments on February 6, 2004 re-moulded the existing system of checks and balances to some extent. The post of Prime Minister, which was abolished with the adoption of the 1995 Constitution, was

³ Jürgen Gerber, *Georgian: Nationale Opposition und kommunistische Herrschaft seit 1956*, (Nomos: Baden-Baden, 1997), p 231.

⁴ The following laws, adopted by Parliament since 1995, formed the hierarchy of norms directly or indirectly related to the security sector: Law on Defence of Georgia, adopted on 31st October 1997; on National Security Council (24th January 1996); On State Secrecy (29th October 1996); on Special Service of State Protection (20th February 1996); on the State of Emergency (31st October .1997); on Non-Military, Alternative Labour Activity (28th October .1997); on Interior Ministry Troops (30th April 1998); on the State Border of Georgia (17th July .1998); on State Security Service (18th February 1998); on the Status of Military Personnel (25th June 1998); on Intelligence Activity (19th March 1999); on Operative-Investigative Activities (30th April 1999); on Mobilisation (23rd June 1999); on Participation of Armed Forces of Georgia in Peacekeeping Operations (22nd July 1999); on Arms, Military Material and on Export Control on the Production of Double Destination (28th April 1998); on Martial Law (31st October 1997); on Military Duty and Military Service (17th September 1997); on the Pension of the Retired Military Personnel and Personnel of the Interior Troops (16th October 1996); on the Social Security of the Families of Soldiers who died in War for the Territorial Integrity and Independence of Georgia (27th December 1996); on Collections for Call-up Deferment to this legislation (21st June 2002); Criminal Code (22nd July 1999); Administrative Code (25th May 1999).

introduced and a two-headed executive established. The government is responsible for the implementation of domestic and foreign policy. The Prime Minister will determine the direction of governmental activities; he discusses the candidature of prospective ministers with the President before their approval by Parliament and, likewise, has the power to relieve ministers of their duty. The resignation of the Prime Minister is followed by the resignation of the entire cabinet⁵. The Prime Minister, furthermore, is responsible for the economic activities of the government and the implementation of law. However, the President may abolish unlawful acts of the government⁶. (This was the prerogative of the constitutional court before the amendments were adopted.) The defence, interior and security ministers are directly subordinated to the President⁷, as they were beforehand, but, at the same time, will be members of the cabinet, under the Prime Minister. The President concentrates power in his hands while imposing the responsibility for the activities of the government on his Prime Minister. Only practice will show exactly how great the Prime Minister's reach will be in terms of security sector governance.

In this respect the division of authority between the President and Prime Minister is not clear. What is clear, however, is that the President has become stronger in his relations with Parliament. He may dismiss the Parliament if the legislature does not approve the government⁸ or if it rejects the budget three times. Furthermore, the President will have the power to dismiss Parliament or the government if a simple majority of parliamentarians votes for the resignation of the government. In view of the fact that the government is essentially the President's 'team', the pressure on Parliament will grow and an imbalance can be produced. Nonetheless, the President may not dismiss Parliament during a period of martial law, if an impeachment procedure is underway in Parliament, or for six months following presidential elections, or, indeed, for six months before the end of the President's term of office. The agreement of one-third of parliamentary members is necessary to initiate a vote of no-confidence. Parliament is able to dismiss the government with three-fifths of the vote. If Parliament fails to reach this threshold, it will not be allowed to debate this question for the following six months. However, it is questionable whether the allocation of power among the executive will be redressed by this regulation.

The constitutional amendments caused strong disquiet in Georgian civil society. Firstly, there was criticism of the procedures, especially in respect of the lack of public discussion on the drafting of the constitutional amendments. Concern was also voiced about the limited time given to review and adoption of the amendments and, equally, concerning the questionable political legitimacy of the Parliament to pass them⁹. (The amendments were passed shortly before the upcoming parliamentary elections of March 2004.) Secondly,

⁵ The Constitutional Amendments, adopted on 6th February, Article 18.

⁶ Ibid., Article 14, Par. 3.

⁷ Ibid., Par. 1.

⁸ Ibid., Article 18.

⁹ The new parliamentary elections took place on 28th March 2004.

criticism was directed towards the consequences of the amendments insofar as the constitutional position of the Parliament would be weakened.

Moreover, there were some misgivings about whether the amendments had been designed to satisfy the ambitions for power of certain political leaders. Presidential elections on January 2004 gave a powerful mandate to consolidate the country and to overcome corruption and economic problems facing Georgia. Flexible governance is needed, guaranteed by the division of competencies between the President and Prime Minister and the principle of collective responsibility of the government. This, in turn, will lead to improved policy execution. Under the former constitutional provisions the President was not entitled to dismiss Parliament. The only means of dismissing ministers or the President was to impeach them¹⁰ if they violated the Constitution or committed a crime¹¹. However, the impeachment procedure is very complicated. Thus the system of checks and balances established by the Constitution was based on the ability of the legislature and executive to reach political consensus. Thus, the adoption of the constitutional amendments does not necessarily represent a good example of a democratic change in the constitutional framework. Definitely, the reform causes a shift of responsibilities with regard to security sector governance. However, it should be stressed that the constitutional framework for the division of competencies between the President and Prime Minister in this respect remains unclear, which effectively enables the President to manipulate either his government or the Parliament.

The Role of the President

The President has a decisive role in the security, defence and foreign policies of Georgia. He is Supreme Commander-in-Chief and thereby guarantees the independence and territorial integrity of the country. He possesses the following powers: enacts laws related to the security policy of the state; appoints and dismisses the Chief of General Staff and his principal commanders¹², the Defence, Security and Interior Ministers; appoints the members of the National Security Council and presides over its sittings; bestows all higher military ranks; submits the candidature of the General Prosecutor to the Parliament for approval¹³; signs international treaties and agreements on security policy issues; determines the structure of the armed forces; decides on referenda; declares states of emergency and martial law; and decides on the mobilisation of armed forces.

Special legislation broadens the President's competencies even further. The President submits the military doctrine and other conceptual documents concerning military re-structuring to Parliament for approval¹⁴; confirms the military-operative plans for the territory; the

¹⁰ The Constitution of Georgia, Article 64, Par. 1.

¹¹ Ibid., Article 63-64.

¹² The Constitutional Amendments, adopted on 6th February, Article 14, Par. 4.

¹³ Ibid., Article 16.

¹⁴ The Law on State Defence, adopted on 31st October 1997.

dislocation of the armed forces and military installations; weapons programme and military technology development¹⁵; confirms the structure of the interior forces¹⁶; approves the state programme on the activities of the security service¹⁷; confirms the statute and structure of the special service for state protection¹⁸; plays an important role in the implementation of state policy on state secrecy; confirms the list of information containing state secrecy and the list of state officials who are authorised to issue permits on access to state secrecy or who are authorised to classify the information as a state secrecy; determines other regulations concerning the classification and marking of information¹⁹; has important competencies with regard to the import and export of military arms and materials of double destination²⁰. The President issues further decrees to facilitate the implementation of the laws adopted by Parliament. Thus the implementation of the security policy remains out of formal parliamentary control to a significant extent. It is not clear how the President and the Prime Minister will share the responsibilities in the implementation of the special legislation on security sector governance. There are loopholes for further inconsistency within the Georgian constitutional system that could cause further undemocratic developments or arbitrary decision-making.

The Role of the Parliament

The Parliament is elected by universal adult suffrage for a term of four years and will consist of two chambers once the territorial integrity of Georgia has been restored, whereupon the Upper Chamber, the Senate, will be made up of representatives from the regions²¹. As matters stand, it is a unicameral body, and elections are conducted using a mixed system: national party lists compete for 150 seats in a proportionate system, while 85 seats go to single mandate constituencies. Under the Georgian Constitution, Defence and Security are prerogatives of the Central Government of Georgia²², and, as such, the territorial entities do not maintain any independent armed forces. This constitutional provision, however, is not effective since two regions of Georgia that are currently the focus of separatist conflicts and are not, in effect, under the control of the central government²³.

According to the Constitution, Parliament determines the foreign and security policy priorities of the country. During the drafting process some experts regarded the norm as a relic from Soviet times, when Supreme Councils of Soviets had constitutionally declared but empty

¹⁵ The Law on State Defence, Article 5.

¹⁶ The Law on the Interior Forces, Article 7.

¹⁷ The Law on State Security Service, Article 19.

¹⁸ The Law on Special Service of State Protection.

¹⁹ The Law on State Secrecy, Article 4, Par. 2.

²⁰ The Law on Arms, Military Material and on Export Control on the Production of Double Destination, adopted on 28th April 1998, Article 6.

²¹ The Constitution of Georgia, Article 4.

²² Ibid., Article 3.

²³ For example, the separatist regimes in Abkhazia and South Ossetia recently decided to hold collective military training exercises to guarantee military readiness for possible military attack by the Government of Georgia, in: <http://www.sakartvelo.info>, 29th January 2004.

responsibility while the true power rested with the Communist Party elite²⁴. These expectations were not entirely groundless. A lack of true debate in the Parliament on issues of security sector governance is evident. Moreover, parliamentary control over the security sector is not firm. Indeed, owing to the instability of the political landscape and the persistent economic crises, there can be no long-term parliamentary control since Parliament itself faces great difficulty in employing and retaining highly-qualified and expert staff.

The primary function of the Parliament remains in legislating on security and defence policy issues. In this respect, it determines the structure and activities of the executive branch of government, defines the numerical strength of the armed forces by passing a respective law yearly, and adopts the defence budget. However, the influence of the Parliament on the executive is weak, since it is not able to participate in the elaboration of the budget or to change the budget draft by means of parliamentary deliberation. According to the recent amendments to the Constitution, the legislative function of the Parliament could be weakened even further. The Prime Minister may call for a vote of confidence in Parliament with regard to the State Budget, Tax Code and the Law on the Structure and Activities of the Executive²⁵. Moreover, the Parliament may adopt a law leading to changes in state revenues or which envisages new financial obligations of the state, only after the government consents to it²⁶.

Nonetheless, the Parliament approves major appointments within the security sector, even though some important appointments were made without parliamentary approval before the constitutional reform of February 2004. The Parliament consents to deployments of foreign forces in Georgia and the deployment of the Georgian military abroad, ratifies international treaties on military issues and joining international security or defence organisations, approves declarations of emergency, martial law and the mobilisation of troops. In these respects, Parliament possesses a ‘war and peace’ power. Parliamentary deliberations are public and, therefore, the main instrument for transparency with regard to security sector governance.

The legislature can hold hearings and ask questions²⁷; set up any number of special parliamentary committees on a permanent basis to scrutinise parliamentary control of the government and prepare security policy issues for the plenary discussion²⁸; set up an investigative commission²⁹ able to hold respective public officers accountable for their financial and political wrongdoing. The special legislation adds further responsibilities to Parliament in security sector governance. It determines state policy in respect of state secrecy³⁰, can form a ‘Trust

²⁴ Gaul Wolfgang, *Verfassungsgebung in Georgien: Ergebnisse internationaler rechtlicher Beratung in einem Transformationsstaat*, (Berlin 2001) (Georgische Übersetzung), p. 147.

²⁵ The Constitutional Amendments, adopted on 6th February, Article 18.

²⁶ Ibid.

²⁷ The Constitutional Amendments, adopted on 6th February 2004, Article 7.

²⁸ The Constitution of Georgia, Article 56, Par. 1.

²⁹ Ibid., Par. 2.

³⁰ The Law on State Secrecy, adopted on 29th October 1996, Article 3, Par. 1.

Group' that may have access to classified information³¹ and, through the Committee on Defence and Security, oversees the activities of the Intelligence Department³² and State Security Service³³. However, effective mechanisms which would truly facilitate the implementation of democratic control over the security sector are not well developed—and parliamentarians lack the experience given by practice and precedent that Western parliamentarians amply possess.

The Role of the Government

The Georgian Government, together with the President, implements security policy. The Cabinet proposes laws and budget drafts, and is responsible for conducting international negotiations on security policy matters and arms procurement. The key ministries with regard to security sector governance are the Defence, Security and Interior ministries. The Ministry of Defence represents a state agency overseeing the armed forces, and is thus responsible for defending the state from outside threats, as well as for the proper training and development of the Georgian armed forces and the fulfilment of defence tasks facing the country³⁴. New constitutional amendments could weaken the parliamentary accountability of the Defence Ministry, which is set to be transformed into a civilian institution³⁵. The principle of collective responsibility of the government lessens the possibility of differentiating between the ministers. Their political fate depends on the position of the Prime Minister. There is no place for an effective parliamentary intervention in this respect. Though the Parliament can raise the question of the responsibility of the ministers, the final decision rests with the Prime Minister³⁶.

Other state agencies participating in the implementation of Georgian security policy are the Ministry of Foreign Affairs, the State Department for Border Guards, the Intelligence Department and the Special Service for State Protection. The Parliament approved the structural reforms of the executive on February 11, 2004 as a result of which the Intelligence Department was be subordinated to the Security Ministry and the Border Guards Department was being merged into the Interior Ministry.

Georgian military forces include armed, border and interior forces. The armed forces are made up of Land, Air and Naval Forces. However, the Law on Defence does not exclude the creation of any other military forces by way of laws passed by Parliament³⁷. Georgia has armed forces for the defence of the independence, sovereignty and territorial integrity of the country and for the fulfilment of international

³¹ The Law on the Trust Group, adopted on 4th March 1998.

³² The Law on Intelligence Service, adopted on 19th March 1999, Article 16.

³³ The Law on the State Security Service, adopted on 18th February 1998, Article 18.

³⁴ Amendments to the Law on State Defence, adopted on 26th October 2001.

³⁵ Thereafter the Chief of General Staff will undertake the operational command of military forces and become a military advisor to the President. The civilian Defence Minister will be charged with the budget, procurements and international relations.

³⁶ The Constitutional Amendments, adopted on 6th February 2004, Article 7.

³⁷ The Law on State Defence, Article 4.

obligations³⁸. The Constitution forbids a merger of the army, police and the state security service³⁹. However, the armed forces may be charged with keeping law and order within the country. This regulation constitutes an *ultima ratio* – only a subsidiary rule. In this case, parliamentary approval will be needed. Moreover, according to the Military Doctrine adopted in 1997, armed forces may be used for the restoration of public order within the state if the international community consents to this action. Although this is difficult to implement in practice, the concern of the Georgian authorities to adhere to international standards in this respect is evident.

Georgian Interior Forces, according to the Law on Interior Forces adopted on April 30, 1998, provide security within the state. They protect public order, the rule of law and human rights against crime and violence; in this respect they assist the Interior Ministry and Ministry of Security. Interior forces are charged with fighting terrorism and organized crime. Moreover, they participate in the defence of the country in wartime. The law does not specify, however, how the interior troops would be involved, or which role they would play, in wartime. During peacetime the Interior Forces are subordinated to the Interior Ministry, which, under the NATO action plan, is to be transformed into a civilian and border control state agency. The Law on Interior Forces must consequently be redefined: the Interior Troops should be demilitarised, and their military and police functions should be clearly determined in the new regulations adopted by Parliament to meet the norm outlined in Article 78 of the Constitution.

The activities of the State Security Service are regulated by the Special Law adopted on February 18, 1998. The State Security Service provides external and internal security for the country. It represents a politically neutral state agency gathering and analysing information pertaining to external and internal threats. In situations of crisis, the Security Service acts in coordination with other state agencies. However, in this respect, the clear division of competencies is still outstanding and in need of clarification. The State Security Ministry, which co-ordinates the activities of various security units, is to be transformed into a security service without the power of investigation into economic crimes.

It must be stressed that parliamentary control over the respective Ministries still remains incomplete. While there are some general tools provided under the Constitution, the special legislation does not specify these rules and does not establish any clearly-defined mechanisms of control. Furthermore, the ongoing reforms within the security sector require professional and responsible ministers with expanded competencies to take independent decisions. Under the current constitutional amendments, which establish centralised state power, ministers' individual responsibility is diminished.

³⁸ The Constitution of Georgia, Article 98.

³⁹ *Ibid.*, Article 78, Par. 2.

The National Security Council

The National Security Council established under the Constitution⁴⁰ has a wide range of competencies in terms of security sector governance. It is regulated by the law on the National Security Council of Georgia adopted on January 24, 1996. The National Security Council is an analysing, advisory, and co-ordinating state body charged with the organisation of state defence and military strengthening. The Council decides on the strategic questions of foreign and domestic policy, stability and public order. It elaborates of the National Security Concept; debates state programmes on state defence and security, and makes proposals on Georgian co-operation with international organisations. Furthermore, the Council discusses the stationing of foreign troops in Georgia; elaborates draft laws and submits staffing levels for the Armed Forces to Parliament for approval; co-ordinates inter-agency co-operation through its permanent commissions and organises this cooperation during states of emergency and periods of martial law. However, it is not accountable to Parliament for its activities and may therefore be regarded as an undemocratic state body⁴¹. Some experts, moreover, view the Council as a ‘small cabinet’ because of its broad competencies and side functions⁴². Its decisions do not formally bind the President, but still bear considerable weight in the shaping of state security policy. Generally, the Council strengthens the political position of the President.

Democratic Control, Transparency and Accountability

The Constitution stipulates certain other independent institutions that may control the activities of the Executive and Legislature in the security sector. The Constitutional Court⁴³ has jurisdiction over constitutional claims and disputes. The Public Defender oversees the state of affairs with regard to the implementation of human rights. Additionally, there exists the General Prosecutor’s Office⁴⁴, to whom the Military Prosecutor is subordinated. The Audit Chamber controls the use of governmental revenues in the security sector⁴⁵ and is accountable to the Parliament. We shall consider the Audit Chamber first, because it is the main agency for insuring accountability.

The Constitutional Court and Public Defender represent two new institutions established under the Constitution in 1995. The Constitutional Court may resolve disputes between state agencies on the division of competencies in the security sector, decide on individual claims in respect of human rights’ violations by state authorities, and rule on the constitutionality of signed international agreements prior to

⁴⁰ The Constitution of Georgia, Article 99.

⁴¹ Gaul, Wolfgang, p. 241.

⁴² Archil Osidze & Ivlian Haindrava, ‘Civil-Military and Interagency Cooperation in the Security Sector Reform in Georgia’, in Philipp H. Fluri & Velizar Shalamanov (eds.), *Security Sector Reform, Does it Work?*, (? : Sofia, 2003), p. 195.

⁴³ The Constitution of Georgia, Article 83, Par. 1.

⁴⁴ Ibid., Article 91.

⁴⁵ Ibid., Article 97.

their ratification by Parliament. In addition, the Court enjoys certain other competencies provided under the Constitution⁴⁶. The Constitutional Court recently started proceedings in connection with one of the first cases directly related to the constitutional division of competences between the centre and regions in the security sector.

General courts have jurisdiction over legal disputes arising from the implementation of the legislation on social security, call-up, deferment, conscription, the legal status of the military, and crimes stipulated by the Criminal Code of Georgia. They may, furthermore, facilitate the implementation of fundamental human rights enshrined in both the Constitution and the European Convention on Human Rights. The investigation into a crimes committed by members of the military forces are carried out by the Military Prosecutor's Office of Georgia. There are no special military courts but the Parliament can establish them during a state of war.

The Parliament appoints a Public Defender. There is no military ombudsman in Georgia, and, therefore, human rights' violations within the military are the Public Defender's concern. He can enter military installations to investigate and to request information from those involved or suspected of involvement in any alleged violation⁴⁷. State authorities are obliged to help the Public Defender in exercising his functions. The Public Defender may propose amendments to the legislation, recommend state agencies to act properly, or initiate criminal or constitutional proceedings in courts. He can approach the President or report to Parliament on actual human rights' violations. The Public Defender can contribute to the transparency and public discussion by informing the public through the mass media about the results of his activities. However, his decisions are not legally binding and are often simply ignored. For example, in 2001, the Public Defender submitted a recommendation to the Parliament that a Parliamentary Commission be set up to investigate and study the reasons behind instances of homicide and suicide in the armed forces. However, this recommendation did not lead to the establishment of the recommended Commission⁴⁸.

The restriction of human rights can be a grave problem in a country like Georgia beset with domestic crises. When limiting human rights in the security interest of the community, the state authorities must observe the principles of legality and proportionality. In all cases of restriction, the Parliament should have some control over the respective state agency. According to the Law on State Secrecy adopted on October 29, 1996, no information may be qualified as a state secret if this endangers human rights or public health and safety. However, the greater share of information related to defence and security is nonetheless classified as such. The actual legislation on state secrets should be amended in line with the interests of civil society and of human rights. All laws and international treaties related to human rights

⁴⁶ Ibid., Article 89.

⁴⁷ The Law on Public Defender, adopted on 16th May 1996.

⁴⁸ Report of the Public Defender of Georgia on the Situation of the Protection of Human Rights and Freedoms in Georgia, Second Half of 2001, p. 34, in: http://www.ecoi.net/pub/mv170_publicdefender-geo.pdf

protection must be published and made accessible to ordinary citizens. In practice, citizens' awareness of the existing and not systemically published laws and international treaties involving Georgia (i.e. those which may be applied directly within the state) is very low, which makes security sector governance less effective.

Security Sector Governance in Emergency Situations

Constitutions provide for emergency situations, when a state of emergency can be declared in cases of war, mass disorder, and violation of national territorial integrity, military coup, armed insurrection, environmental disaster or epidemic or in other cases where state agencies are unable to exercise their functions properly. Georgia has encountered emergencies, external and domestic, larger and smaller in scope. There was a military coup in 1992 removing the President from power; there have been military insurgencies; there was the Rose Revolution where a President resigned from office—reluctantly—after having to flee from the building of the Parliament. In this section, we shall consider the rights and role of the Parliament in emergencies.

The decision of the President to declare a state of emergency or to impose martial law must be submitted to the Parliament within 48 hours for approval⁴⁹. During a state of emergency or a period of martial law, the President of Georgia is authorised to restrict the exercise of certain rights and freedoms enshrined in the Constitution. If the Parliament does not consent to the declaration of the state of emergency or the imposition of martial law, the Presidential decision will have no legal effect. Furthermore, Parliament must give its consent to any prolongation of the state of emergency. According to the new constitutional amendments, the Parliament, which has been dismissed by the President, convenes to approve or to prolong the state of emergency or state of war. If the Parliament does not convene or does not approve the presidential decision on the state of emergency within five days, it will be dissolved. The state of war must be terminated if the Parliament does not confirm it within 48 hours⁵⁰.

The Constitution does not provide to which extent respective rights can be restricted and does not specify any system of control over these restrictions. The Parliament may convene on its own initiative and sit until the end of a particular situation. This regulation aims at the prevention of power abuse by state agencies in an emergency situation. However, it does not provide any concrete mechanisms in this respect for how Parliament might continue to oversee the activities of state authorities during the state of emergency. In addition to human rights' restrictions, the use of military force during the state of emergency is prohibited without a parliamentary agreement. Thus, Georgian law establishes the formal supremacy of the Georgian Parliament in the declaration and abolition of a state of emergency. However, during the state of emergency itself, the President possesses superior power. He

⁴⁹ The Constitution of Georgia, Article 73, Par. 1.

⁵⁰ The Constitutional Amendments, adopted on 6th February 2004, Article 5.

issues binding decrees and is ultimately responsible for state defence, security and public order.

The Constitution does not explicitly envisage a parliamentary agreement *a posteriori*. Given that a state of emergency, in most cases, represents an immediate danger to the community that must be prevented rapidly and that parliamentary deliberations may prove time-consuming, it seems problematic to tag an *a priori* approval of the Parliament onto an ongoing crisis situation. It is, on the other hand, self-evident that the declaration of a state of emergency can be abused by an undemocratic regime if there is no parliamentary control in place. Georgia has suffered from such an instance of abuse in one of its regions, where the local leader declared a state of emergency and restricted political rights disproportionately.

We will here consider two cases where the President acted to quell military disobedience, in 1998 and 2001, because they illuminate the question of Presidential actions and Parliamentary consent. On October 19 1998 Colonel Akaki Eliava with a group of supporters joined by some 130-150 servicemen seized weapons and some heavy armaments and set off for Kutaisi, the country's second largest city. The mutineers demanded Shevardnadze to resign and restore the "legitimate" government of former President Gamsakhurdia. Blocked by units of the Armed Forces, there was exchange of gunfire with casualties. Shevardnadze called upon the rebel leaders to lay down arms and said he was ready to declare emergency law in the country. By October 20 the rebels had been disarmed, active leaders arrested, though Eliava had escaped. Thereupon Shevardnadze declared the mutiny over and no need to declare emergency law. Nonetheless, Shevardnadze ordered the use of armed forces without a formal *a priori* agreement of the Parliament. At a session of the Parliament on October 19, the Chairman of reporting on regarded the revolt as "... an attempt at a *coup d'état* and at bringing about chaos in the country". A Parliamentary session on October 20 supported the President's actions without raising the issue of whether a declaration of emergency, and the Parliament's *a priori* consent to the Government actions had been required—presumably because that would have delayed and limited the room for manoeuvre of the officials in charge. Therefore, the activities of the Parliament in this respect could be qualified as tacit consent.

On May 20, 2001 a unit of the Armed Forces numbering some 400 servicemen refused to obey the orders of their Commander and moved to the area of the Mukhrovani near Tbilisi, seizing facilities of Interior Ministry troops. The reason for their disobedience was non-payment of wages and other social grievances. Armed Forces blocked the base. President Shevardnadze demanded the insurgents to surrender. The Parliament reacted immediately, convoked a closed-door emergency session of the parliamentary bureau, the supreme administrative body of the Parliament, in which all groups and committees are represented, although it does not possess explicit legal authority. After the session, the members of Parliament declared that the force of arms was not to be used against the insurgents, unless the situation had come to an impasse. Thus, the Parliament entrusted the Executive with deciding how the

situation could be dealt with, but called on the government to do everything to bring the crisis to a peaceful end as soon as possible. Shevardnadze negotiated personally with the insurgents, and the battalion returned to its place of station. Thereby, the Parliament accepted the decision of the Executive by not restricting its power of discretion to use force.

On November 22 demonstrators took over the Parliament building, where Shevardnadze was scheduled to address the first session of a new legislature. Compelled to abandon his address he fled to his official residence, issued a statement condemning the events as an attempted *coup d'etat* and said he had no alternative but to declare a state of emergency and restore order with the help of the Interior Ministry and the Armed Forces. Burdjanadze, as Chair of the outgoing Parliament, immediately declared that in accordance with the Constitution she assumed presidential powers. The dramatic situation ended with Shevardnadze resigning in return for immunity from prosecution. The US recognized Burdjanadze as acting President.

The solution was a political one, with domestic and international actors. Thus it circumvented a constitutional solution, which, even in calmer political circumstances than those of November 2003 would have been a complicated subject to resolve. The Constitution requires that in order for the state of emergency to come into force, it must be ratified by Parliament within 48 hours. If that happens, Parliament must remain in session until the state of emergency is lifted. Neither parliamentary nor presidential elections may be held while a state of emergency remains in force. Moreover, the Constitution precludes a Parliament debate on impeaching the President as long as a state of emergency is in effect. Shevardnadze could be legally removed only by a two-thirds vote by the outgoing Parliament, but the Constitution precludes a Parliament debate on impeaching the President as long as a state of emergency is in effect. A legal interpretation on the constitutionally valid powers of the Parliament in this contradictory situation would test the skills of constitutional law experts.

Generally speaking, the executive should be able to order armed operations in situations of immediate danger and thereupon seek parliamentary approval as soon as possible. The new constitutional amendments weaken the position of Parliament in this respect. The presidential power on the use of force will be strengthened. According to the new amendments to the Constitution, the President decides on the use of force and submits it to the Parliament for approval within 48 hours⁵¹. The Parliament confirms the presidential decision. According to the prior constitutional provision, the use of force was forbidden without parliamentary consent. Thus the presidential powers have increased.

Social Security and the Legal Status of the Military

The Constitution of Georgia provides for military duty for every Georgian citizen⁵². According to the Law on the Status of Military Personnel adopted on July 25, 1998, the state guarantees the social and legal protection of military servicemen and their families. The state also has to guarantee the equality of all members of the military. Thus, the

⁵¹ Ibid., Article 24.

⁵² The Constitution of Georgia, Article 101.

authorities are obliged to prevent corruption and other forms of discrimination within the security sector. However, that the state has hitherto been unwilling to fight corruption and has been fully unable to provide elementary living conditions for the military. Discontent and mutinies within the armed and interior forces that took place between 2001 and 2003 stemmed from a widespread discontent from the social circumstances of military personnel. After the Mukhovani mutiny, largely caused by degrading life for service members, in May 2002, Interior Ministry Forces mutinied; in July 2002, 100 young army officers resigned, accusing the Ministry of Defence of corruption; in March 2003 army officers entered the Isani military base and demanded their wages.

After Mukhovani, President Shevardnadze told journalists that he had given the soldiers his “word as the President and Commander-in-Chief that none of them would be troubled by an investigator because the state itself is no less guilty for what has happened”. He continued, “If our servicemen lived in normal conditions, there would have been no mutiny”. Shevardnadze stressed that the country’s leaders “bear moral responsibility for the incident” and that “the authorities and the country’s population should pay more attention to the army”⁵³. As the Head of State and the Supreme Commander in Chief of the military, Shevardnadze had been in the best position to observe the dire plight of the Armed Forces.

According to Colonel Avtandil Davitadze, the head of the Defence Ministry’s financial department, the situation in the Army was catastrophic. The stockpile of foods had been gradually exhausted; there was no money to purchase new uniforms for recruits; officers had not received their salaries for the last four months. As it appeared later, the money was used in the “black” alcohol business. In March of that year, two officers had committed a suicide for financial hardships and inability to maintain their families. Moreover, the military is beset with problems of social discrimination, as it is mainly young people from impoverished families, who can not afford a payment for call-up deferments, who serve in the army. The Law on Alternative Labour Service adopted in 1997 was not implemented until 2002.

International Peacekeeping

All International agreements on the participation of Georgian troops in peacekeeping, peace enforcement and all other peace operations must be ratified by Parliament in accordance with the law on the Participation of Georgian Armed Forces in Peacekeeping Operations adopted on July 22, 1999. The main responsibilities for decision making and the co-ordination of the participation in international peacekeeping are divided between the President, Parliament, the Foreign Affairs Ministry and the Defence Ministry. If the Government plans to participate in peacekeeping operations that may include the use of force, the Foreign Affairs Ministry must negotiate a draft agreement with that respective

⁵³ Pravda online, <http://english.pravda.ru/cis/2001/05/26/5985.html>, CNN “Georgia mutiny troops return to base”, May 26, 2001, in: <http://www.cnn.com/2001/WORLD/europe/05/26/georgia.army/index.html>.

country, which determines the number of deployed troops, their stationing, tasks, readiness and means of participation. This widens the scope for parliamentary consent. It must be assumed that the legal power over ongoing operations does not pass to Parliament, but instead rests with the Executive. The Parliament does not have the right to recall the deployed troops.

Once a year, the Foreign and Defence Ministries of Georgia submit a report to Parliament concerning the participation of Georgian forces in peacekeeping, peace-enforcement and other peace operations⁵⁴. Georgia's capabilities in peacekeeping operations are limited; for the time being the Parliamentarians are unlikely to have an urgent interest in controlling them. However, the Parliament should be kept informed about any ongoing peace operation on a regular basis by means of its Defence or Foreign Relations Committee. Equally, parliamentarians who are experts in that field should also be included in any delegations sent to visit deployed forces.

The fight against terrorism has been one of the most crucial security challenges for Georgia in the last few years. After the attacks of September 11, 2001, the issue of terrorism is now discussed in terms of state sovereignty. In this respect, a new role for Parliament in controlling the activities of state authorities, which bear the responsibility for fighting terrorism, must be defined and founded on a clear constitutional basis. According to the recent practice with regard to the deployment of US military specialists in Georgia, co-operation with other countries to fight international terrorism must also be placed under the Georgian Constitution and approved by Parliament.

Conclusion

During the last decade Georgia has been undergoing almost continual changes in its political system, which has effectively hindered the establishment of a consolidated security sector. The Parliament, whose primary function is to control the Government, has been dominated mainly by the Executive. The adoption of the Constitution had to guarantee the stability of the political system on the one hand, and establish a stronger Parliament on the other. But its suitability already been brought into question by 2001, when the President announced plans to introduce a cabinet system and consolidate his power. After the revolutionary change in 2003 the new political leaders of the country strengthened the Presidency through the establishment of a Cabinet to be headed by the Prime minister. Thus the syndrome of constitutional ambiguity concerning the Parliament and Executive domination in policy seems set to persist.

Defence reform and an overall reform of the security sector are under way in Georgia. After the 'Rose Revolution' the government that came into office undertook a broad and far-reaching reform of the security sector, in the Ministry of Defence, Interior, the Border Guards, and intelligence. The defence budget of the Armed Forces has been

⁵⁴ The Law on the Participation of Armed Forces of Georgia in Peacekeeping Operations, adopted on 22nd July 1999, Article 10.

significantly increased. A National Security Concept is being developed, and the Parliament will consider it. To some extent, the security sector reforms are driven by domestic needs, because security sector malfunctioned, to some extent, by foreign policy considerations. The Government has declared a certain course toward the EU and NATO membership, and hopes to get admitted to the Membership Action Plan. Both NATO and the EU pay attention to security and defence reforms. But both are just as much interested in the political and democratic side of reform. They look intently at the role of Parliaments in defence and security.

Among the goals that Georgia's Government has to attain are: planning force improvement, defence resource management, economic policy, and improvement of interoperability of armed forces with NATO, which provides evaluation of a country's progress, provides technical and political guidance, and supplies defence planning expertise. This is the security and defence part of the reform. There also is a political part. Countries that intend to join the MAP (and, in the future, NATO) pursue internal policies based on strengthening democracy and the rule of law, respect for human rights, the principle of separation of powers and judicial independence, democratic elections, political pluralism, and freedom of speech and press. This will include ensuring the adaptation of all relevant legislation in pursuit of these policies.

Georgia has certainly created a strong framework of civilian control over the security sector and the Government is bent on reform. But the parliamentary sector within the framework is not very strong. It will be difficult to balance the self-contained and unaccountable Executive if democratic control is not institutionalised through an effective Parliament. Moreover, the preventive and controlling function of parliamentary consent to the activities of the Executive with regard to security sector governance could be weakened within the new system. Parliament will come under pressure to consent to the respective decisions of the President and Government. As a result, parliamentary involvement in security sector governance could be marginalised. Past experience teaches that the personal and unilateral decisions in this respect during the last decade in Georgia have led to many acute problems in state-building, the establishment of democracy, conflict prevention, the promotion of human rights and dealing with external threats. In view of this, an optimal balance between the branches of government, and between democracy and effectiveness, must be maintained and improved through the institutional practice and civil society's involvement in such a way that the people's sovereignty, as guaranteed under the Georgian Constitution, is not undermined.

Chapter 2

Security Sector Governance in Georgia (I): Status

Antje Fritz

Security Sector Governance in Georgia is a field which is certainly not easy to explore. First of all there is no up-to-date literature, at least none which considers the entire complexity of the relevant aspects and elements influencing security sector governance and security sector reform (SSR) in the country. Secondly, research on issues relevant to security sector governance has the appearance of a patch-work quilt. There is no comprehensive assessment of security sector reform; studies mainly focus on disconnected aspects; the various threads are not brought together, at least not in a way which would allow an evaluation of the overall situation of security sector governance in Georgia. The closest to these needs is the work of Center for Civil Military Relations and Security Studies (CCMRSS) in Tbilisi. The research work of David Darchiashvili and Tamara Pataraiia provides deep insights and important background information on security sector relevant issues¹.

In order to bring the threads together and to gain a basic overview on the current state of security sector reform in Georgia, a stock taking, based on expert interviews was launched in September 2002. Up-dates have been made continuously, the latest carried out in January 2004.

Overall, 24 interviews have been carried out with Georgian experts, involved in security sector related issues, working within the Georgian Ministry of Defence (MoD), the Ministry of Foreign Affairs (MFA), the Ministry of Internal Affairs (MIA), and the Georgian Military Academy. Furthermore, there were interviews with parliamentary staffers, including members of the Parliamentary Committee on Defence and Security, with members of Non-Governmental Organizations (NGO's), and with military journalists. Most of the interviews (13) have been carried out in Tbilisi, in September 2002, some (5) in Zürich, Switzerland during the 5th International Security Forum in October 2002, furthermore one interview during a Conference on Border Management in March 2003 in

¹ Recent contributions are for example: David Darchiashvili, Implementation of Parliamentary Control over the Armed Forces: The Georgian Case. In: H. Born, M. Caparini, K. Haltiner, J. Kuhlmann (eds.): Democratic Governance of Civil-Military Relations in Europe: Learning from Crisis and Institutional Change. Berlin: Lit-Verlag 2004 (forthcoming). And: Tamara Pataraiia: Civilians in National Security Structures in Georgia. Paper Presented at the Working Group Meeting: Civilians in National Security Policy, Geneva, November 2-4, 2002.

Geneva, Switzerland, two interviews at the Workshop on “Security Sector Governance in Southern Caucasus – Challenges and Visions”, held in Reichenau/Rax, 21-24 November 2003. And finally three interviews have been carried out by e-mail communication in January 2004 in order to get an up-to-date picture of the situation after the “Rose Revolution” and the January 4 presidential elections.

Basis of the interviews have been several questionnaires used as frameworks for assessing SSR. The evaluation, presented within this study, is based on a small selection of broad and general questions on the current state of SSR in Georgia, prospects for the upcoming years and also on recommendations and priorities seen by the experts in view of the reform process². The objective was, to get a broad overview on the assessment of the state and prospects of Security Sector Reform in Georgia by local experts, working within the field of security policy. The picture given is deliberately focused on those factors and aspects of SSR, which are – according to the interviewees – currently relevant and therefore have an impact on the ongoing developments.

It is not the aim of this study to give a comprehensive overview on the state of all security sector institutions in Georgia and neither on the history of Security Sector Reform and the process of building up the Georgian Armed Forces. Details on state security services and institutions might be found within the White Paper of the MoD³. A broader background on developments in view of the reform of the security sector and the building up of the Georgian Armed Forces can be found in the research work of David Darchiashvili and Tamara Pataraiia, without whose support and encouragement this project would not have been possible.

Problems, Challenges and Obstacles

Given the current situation in Georgia there is an overwhelmingly long list of difficulties, which can be seen as major challenges to SSR. The interviewees name most varied and different obstacles. Views and perspectives of the assessments are quite different, but in the main points agreements are obvious. The various issues can be grouped into three categories. There are the basic problems: the broader context of democratisation and reform; there are the general problems in view of Security Sector Reform as such; there are specific problems, relevant to the Armed Forces and other organisations, the Security Forces.

As to the basic problems—the broader context of reform—it is widely accepted that reform of the security sector can not be seen without the frame of general democratization within a country. This is why we have to look first into basic problems of democracy-building in Georgia before considering general problems of security sector reform, which will be dealt with in the a Chapter.

² Please find questionnaire: “General Assessment SSR in Georgia” attached to this article.

³ White Paper of the MoD, Georgian Ministry of Defence, Tbilisi 2002.

Democratic structures and national mentality

“The problem lies within the system”⁴

More than twelve years after the breakdown of the Soviet system, democratic structures have still not been adequately implemented in Georgia. The situation is quite similar to that in other transition countries: legislation seems to be principally sufficient and is formally based on Western models, whereas the real challenge lies in implementing and enforcing the law.

The implementation of democratic structures becomes even more difficult, since the whole system is determined by personal relationships rather than by well defined democratic procedures. (The details on this phenomenon will be dealt with below). The majority of the interviewees stressed that the mentality and with it the whole ethos in the country has to change before it might become possible to built up sustainable democratic structures⁵.

Another factor is the general weakness of state management culture which makes the situation considerably worse: Those in power have basic problems to properly manage the system⁶. State structures support corruption, i.e. the existence of only one account for each ministry makes management and control of revenues and expenditures extremely difficult.

Clientelism and corruption

“The legacy of clannish thinking is one of the most significant obstacles to development”⁷.

“If there wouldn't be any corruption, Georgia would be fine within 10 years”⁸.

The most detrimental elements which prevent a continuous transition to democracy are certainly clientelism and widespread corruption, two intertwined phenomena which run like red threads through the entire Georgian state sector, political system and society. Their dangerous presence is not only contra-productive to any democratization but they also shape the broader context of security sector reform. They require a closer look.

In Georgia the soviet totalitarianism produced a bizarre symbiosis of the specific bureaucratic system mixed with traditional values and a certain *modus vivendi* in the population, which is determined by traditional clannish relationships. As a result, the interdependence of social mentality--mirrored especially in the way of thinking and behaving of the public officials and also society at large--

⁴ Quotation from an interview with a member of a Georgian NGO.

⁵ Referring to an interview with a member of a Georgian NGO.

⁶ Referring to an interview with a member of a Georgian NGO.

⁷ Koba Liklikadze, David Losaberidze, Institutionalism and Clientelism in Georgia. Unpublished article. Tbilisi, 2002, page 2.

⁸ Quotation from an interview with a member of the Georgian Ministry of Internal Affairs (MIA).

and institutional development of the state system is converted into an essential dilemma⁹. Relationships between officials and their subordinates determine the state structures as well as the state authority¹⁰. Those "...client relationships in Georgia ... still play the most important role both in everyday life and in the political processes of the country"¹¹. As a result, policy objectives tend to support the development of oligarchic groups rather than encourage national development and as a consequence the political system is degraded and constricted¹².

The primary problem, resulting from clientelism is corruption, which has an obvious systemic character and is in Georgia generally seen as "the rule of the game"¹³. Whereas corruption has been grown significantly since the end of the Cold War¹⁴, the phenomenon is well known already since the first years of soviet rule and grasped at the latest from the beginning of the 1960s all levels of Georgian society, especially the ruling "nomenklatura" and the "red directors" of the state enterprises¹⁵.

The clientele and corruptive structures may most illustratively be described as a pyramid, with a very small level at its top which is formed by the president and his family clan and then the biggest and broadest levels at its bottom which are formed by those elements of the society which have the least power and authority. "Money making" depends on the level within the pyramid: The higher the level, the more authority and the more money can be made. Those in power are depending on this pyramid, since this societal structure is helping them to stabilize their position. Therefore it seems understandable that a real intention to fight corruption can not be stated yet. Deeply rooted corrupted interests throughout the political and societal structure prevent serious and effective measures¹⁶. Whereas some state, that there is hope to fight corruption, since the pyramid seems to get "holes"¹⁷, others say, that there is no way to fight it at the current stage and that the only way is, to wait for an alternation of generations¹⁸. There is no doubt that only a long term process may see first positive results¹⁹.

⁹ Liklikadze, Losaberidze 2002, op. cit., p. 2.

¹⁰ Ibid., p. 3.

¹¹ Ibid., p. 20.

¹² Ibid., pp. 7-8.

¹³ Ibid., pp. 4 and 7.

¹⁴ Ibid., p. 7.

¹⁵ Alexandre Kukhianidze, *Criminalization and Cross-Border Issues: The Case of Georgia*. Paper presented at the Workshop "Managing International and Inter-Agency Cooperation at the Border", held in Geneva, March 13-15 2003, p. 2.

¹⁶ Referring an interview with a member of a Georgian NGO.

¹⁷ Referring to an interview with a member of a Georgian NGO.

¹⁸ These prognoses are referring to "lessons" from history, i.e. on the transition of states towards capitalism. The US is an example in the 20th and 30th of last century. According to these prognosis, the only hope is offered by the time passing by: The mafia-members are increasingly investing their money in "clean" and legal businesses, which help to create new and legal jobs. They send their children to renowned universities abroad. The children get accustomed to another "style" of living and behaving and of "making money". Later on they bring this "style" back home and the mafia-structures slowly recede.

¹⁹ Referring to interviews with several members of Georgian NGOs.

Public involvement in the democratization process

“They do not clearly understand what democracy means”,²⁰

During the last twelve years “democracy” has been tiptoeing around Georgia like a shy and obscure ghost, who does not want to come in, sit down and make itself visible. At least for Georgians this is a picture that might be envisaged. The golden word “democracy” has been repeated by western advisors like a magic incantation and still it is not clear what is behind this abstract phenomenon, which sneaks around and still is prudently hides behind quite obvious and dominant fellow travellers: economic crisis, corruption and political chaos. No wonder that something which is as vague and obscure, which does not bring any obvious incentive or benefit, is clearly seen as something that one might easily do without. In other words: the tiptoeing ghostly visitor may – in the eyes of the one or the other Georgian - best stay outside.

After the hardships of the last decade it seems to be understandable that society at large sees “democracy” as a failure and “democratic values” as nothing that is worth striving for. Even if those values would be accepted and understood as something valuable, the citizens would not feel that their involvement could help implementing those values in societal life²¹. This mentality is a part of the soviet legacy which still has not been overcome.

Furthermore it seems to be quite understandable that in their fight to survive economic and political crises people look first of all after their own needs and requirements, are generally oriented towards family, relatives, and friends, rather than towards public life²². Consequently, society is quite “nuclearized” and as a result there is a weak socialization of citizens in terms of understanding “community”²³.

Another reason for the public’s retreat from engagement in any reform and democratization processes is to be found in the general lack of the rule of law in the country which is going along with a widespread mistrust in the government²⁴. For those, not being already entirely indifferent to political developments, the government is mainly seen as direct enemy to the general public²⁵.

Civil society is still ill developed and only very marginally involved in democratization and reform processes. One of the main problems is, that a “disorganized NGO community”²⁶ and mostly

²⁰ Quotation from an interview with a member of a Georgian NGO.

²¹ Referring to an interview with a member of a Georgian NGO.

²² Kukhianidze 2003, op. cit., p. 3.

²³ Referring to an interview with a member of a Georgian NGO.

²⁴ The United States Information Agency (USIA) carried out opinion polls, showing the dramatic increase of public mistrust towards the government during the last few years.

²⁵ Referring to an interview with a member of a Georgian NGO.

²⁶ “There are some 5,000 civilian associations and 500 foundations registered in Georgia, however, only 10 to 15% can be considered true Non-Governmental Organizations (NGOs).” See NATO PA: Background Document to the Rose-Roth Seminar, Tbilisi, Georgia, 27-29 September 2002, p. 6. “Only 50-60 of them are active. Most often they are very small.” Quotation by member of a Georgian NGO. Even the most well-established and powerful organizations face financial problems, and depend entirely upon foreign grants or donations. Most NGOs are based in the capital while outlying regions are often ignored.

incompetent and still insufficiently developed media²⁷ lack necessary resources to exercise decisive influence over the government”²⁸. Furthermore, the society ignores the reform process, since “reforms are, as a rule, launched and implemented by upper echelons or nomenklatura. The society is not much involved in this process and perceives any change as an action directed against it”²⁹.

Civil-society building, a task which has been taken up by several NGO’s, suffers from a lack of cooperation, coordination and continuity within NGO involvement³⁰.

The engagement of public involvement in the democratization process is a Sisyphean task, which has to deal with the major challenge to explain to society-at-large, that “democracy”, which is perceived as failing on a day-to-day base, is nevertheless in the long run not a failure, but a vital value to strive for.

Influence of the security environment

Beside the above mentioned internal aspects, external threats and influences upon the security environment also determine the broader context of security sector reform in Georgia. Those threats, most of all the Russian threat to Georgian territory, but also the frozen conflicts in the autonomous regions, are seen as basic negative factors to SSR in Georgia. A permanent pressure above all precludes that enough capacities and energies are available for reforms³¹.

On the other hand, those factors may imply certain ambivalence. Incidents, like the Russian bombing of the Pankisi gorge, also seemed to have enforced Georgian will to further cooperate with the West and to come as close to NATO integration as possible, which is for the time being the most important incentive for the Georgian government to implement required reforms.

Moreover, security threats enforce a desire for general security and for a strong and professional army. Therefore, they also positively influence the will to reform the Armed Forces, but at the same time hinder a consequent reduction to their present size. A negative influence certainly is a constricted focus on reform of the Armed Forces, which

Despite these weaknesses, the NGO sector in Georgia has gained influence both over policymaking and public opinion in the past few years.” NATO PA 2002, op. cit., p. 6.

²⁷ “There are approximately 200 independent print outlets nationwide, some eight TV stations in the capital and more than 45 regional TV stations, 17 of which offer daily news. Radio and a few daily newspapers remain the major source of information for peripheral regions that lack electricity. Poor finances force most print outlets to labour under the influence of political ‘sponsors’ while television is the most popular source for news broadcasts.” NATO PA 2002, op. cit., p. 7.

“Georgian media operate with a greater level of freedom compared to counterparts in most post-Soviet countries. However, there are cases of state-sponsored breaches of freedom of speech as well as incidents of violence against journalists.” NATO PA 2002, op. cit., p. 7.

²⁸ Archil Gegeshidze, Security Strategies for Georgia. A Georgian Perspective. Remarks to the AGBC Forth Annual Conference “Development Strategies for Georgia”. Washington: 2001, page 3.

²⁹ Liklikadze, Losaberidze 2002, op. cit., p. 34.

³⁰ Referring to an interview with a Member of a Georgian NGO.

³¹ Referring to an interview with a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs.

precludes the necessary reform of other security forces--border guards, internal troops, and police forces.

General problems in view of Security Sector Reform

Having had a look on the broader context, we may shift our attention towards general problems of security sector reform itself. The following section reflects the most forcefully and repeatedly stressed points of those questioned.

Lack of a security strategy and a reform concept

”The biggest problem is that the reform process is not well understood. There is no consensus what SSR would mean for Georgia and there is no precise programme for reforms. Only recommendations from foreign experts”³².

The lack of a national security strategy and a precise concept for SSR in Georgia is probably the most fundamental obstacle to any effective reform. Whereas some individual statements³³ allude to an internal, not yet published long-term plan for reforms, most of the interviewees³⁴ insist that there is still no concrete reform programme but only recommendations of foreign experts from the International Security Advisory Board (ISAB)³⁵ are available³⁶.

Nevertheless, first tentative steps towards a reform plan have been taken. There is a White Paper of the Ministry of Defence³⁷ that includes brief outlines on Georgian defence policy, defence structures, personnel policy, logistics, defence budget and the relation between Armed Forces and society. Furthermore it contains information on the missions of the Armed Forces, military co-operation, the various defence and security forces, the General Staff, civilian personnel, the military service and education system, information on defence planning, defence finance and military legislation. The White Paper takes stock of the current state of institutional changes, and gives a very broad idea in which direction a general reform should go.

³² Quotation from interview with a member of the Defence and Security Committee of the Georgian Parliament.

³³ Referring to interviews i.e. with a member of the Georgian Defence Academy and a member of a Georgian NGO.

³⁴ Referring to interviews with a member of the Defence and Security Committee of the Georgian Parliament and a member of the Georgian Ministry of Defence (MoD).

³⁵ “The International Security Advisory Board (ISAB) was established by a memorandum of Understanding dated 14 April 1998. ISAB is an independent body, working directly to the Government of Georgia. In accordance with the MOU, ISAB submitted a draft Report, with recommendations, to the national Security Council at the six-month point. After out-of-committee consideration the Secretary of the National Security Council informed ISAB that the content and recommendations of the draft Report were broadly acceptable. He also requested ISAB to elaborate an outline schedule for implementation of the recommendations, and to submit the final Report at the twelve month point.” See: <http://www.cpirs.org.ge/Archive/ISAB.html>; 06.04.2003. The report is to be found at: <http://www.cpirs.org.ge/Archive/ISAB.pdf>

³⁶ Referring to an interview with a member of the Defence and Security Committee of the Georgian Parliament.

³⁷ White Paper of the MoD, Ministry of Defence Georgia, Tbilisi 2002.

However, the White Paper is far from being precise enough to provide clear guidelines and priorities. It has obviously been drafted in order to demonstrate a certain transparency in giving an overview of the current state of the security sector. It obviously lacks a national vision and concrete information how the very broad defined goals should be transferred into missions³⁸. Georgia's strategic interests are set out briefly on only one page and are vaguely, partially and rather inconsistently mentioned within the introduction of the paper. Following the White Paper, interests are regional stability and cooperation, a modernization of its Armed Forces and an interest in "moving Georgia closer to the Euro-Atlantic community of nations"³⁹. Merely stating that the Georgian Armed Forces should be "NATO-compatible" leaves open how this will affect the allocation of scarce fiscal resources or the priority of reforms. The rest of the White Paper is descriptive and does not provide guidance for further reforms. According to an expert, the "White Paper 'puts the cart before the horse'. Without the delineation of Georgia's strategic interests and objectives the paper is void of any indication of where Armed Forces reform should be heading"⁴⁰.

Another effort towards the conceptualization of SSR has been taken in view of the elaboration of a reform of the Security and Law Enforcement Services of Georgia. Problems and challenges are different here, *as will be related below*, but they enforce the impression of the creation of a patchwork quilt rather than a strategic implementation of a clear national security strategy.

One could put it in the following fashion: Georgia has a lot of general recommendations in view of SSR, provided by international advisors. What Georgia does not have is an adaptation of these recommendations to the country's situation and background and it also lacks concrete directives in view of a practical implementation of the reform.

Nevertheless there are signs of improvements⁴¹: A member of the International Security Advisory Board recently⁴² confirmed that a draft of the National Security Strategy is being. However it is not published yet, presumably, it will be considered by the Parliament, but we cannot tell if the new government will agree on the extant version.

For those involved in the reform process it is still extremely difficult to understand what SSR should mean for Georgia and how an implementation could look like. For those, having at least a broad idea what a reform could or should imply, there is an obvious lack of consensus. Take for example the Armed Forces: on the one hand it is an accepted fact, that the reform should imply a downsizing to its acceptable and affordable strength. On the other hand, taking the current

³⁸ Referring to an interview with a member of the Defence and Security Committee of the Georgian Parliament

³⁹ See White Paper of the Georgian Ministry of Defence, Tbilisi 2002, page 3.

⁴⁰ An assessment by Marina Caparini, Senior Fellow at the Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, Switzerland.

⁴¹ See also pp. 75

⁴² At the Workshop on Security Sector Governance in Southern Caucasus in Reichenau/Rax, November 21-24 2003.

security threats into account, the readiness of the Armed Forces should be increased⁴³.

As a next important step it to agree on a common concept which is based on a broad consensus within the country, having in mind that “SSR implies that the national leadership has gone through a process by which the strategic interests of the country have been assessed, and implications identified for key sectors of the state. That is, there is an understanding and consensus on which areas need to be tackled for reform that flows from the highest levels of the political leadership, based on a comprehensive view of the strategic and national interests of the state”⁴⁴.

A consistent guideline in view of security structures and institutions as well as in view of goals and missions would be a basic starting point to SSR in Georgia. As long as those guidelines and directions are absent, effective reforms will remain a crucial challenge⁴⁵. Most of the experts agreed that it is not a lack of expertise or experience but the absence of political will which prevents the implementation of a national security strategy⁴⁶.

Lack of political will of the executive power

“The most important obstacle is the lack of political will”⁴⁷

“Certain people do not have any interest in a concept”⁴⁸

Following the views of some interviewees, it was clearly the lack of political will of the former government that hindered a serious progress of the reforms⁴⁹. The experts explicitly stressed the negative role the president himself played in this regard. Whereas Shevardnadze publicly proclaimed the reforms in view of meeting the MAP requirements, he was obviously in no hurry to give consistent directives to implement them. This brings us to another factor: the role of the president in defence and security issues versus the role of the parliament. The head of the executive power clearly dominated political life in Georgia. The parliament was much weaker than the presidential power:

...The President can and does ignore the opinion of parliamentarians concerning various issues of security and defence policy⁵⁰.

⁴³ Referring to an interview with a member of the Defence and Security Committee of the Georgian Parliament.

⁴⁴ An assessment by Marina Caparini Senior Fellow at the Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, Switzerland.

⁴⁵ Referring to an interview with a member of a Georgian NGO.

⁴⁶ Referring to an interview with a member of the Defence and Security Committee of the Georgian Parliament.

⁴⁷ Quotation from an interview with a member of a Georgian NGO.

⁴⁸ Quotation from an interview with a member of the Defence and Security Committee of the Georgian Parliament.

⁴⁹ Referring to an interview with a military journalist and several members of Georgian NGOs.

⁵⁰ Hans Born, Recipients' Views on Interparliamentary Assistance: A Short Report on the Czech Republic, Ukraine, Georgia – Three Case Studies; In: Hans Born/Marina

Whereas legislation speaks for parliamentary control of the security sector, reality shows a different picture, for example in view of the oversight on defence spending:

The parliament hardly fulfils its main obligation in security and defence policy: budgetary control⁵¹.

Two reasons for the neglect of this obligation might be mentioned: At first there is still little knowledge and understanding on how defence resources are allocated and spent⁵². A second reason is, that the “Parliament does not have the right to amend the budget without the consent of the president, who is the only person authorised to submit official budgetary drafts or amendments. The legislature has only two options – to agree the overall figures or to reject the entire draft. To reject the draft would require enormous political effort and compliance with numerous conditions, and so far legislators have not resorted to such measures. Nor was any action taken on the many occasions when the parliamentary taskforce responsible for reviewing the power ministries’⁵³ spending on classified activities found that it knew no more than the other deputies”⁵⁴.

Generally it can be said that the authoritarian style of Shevardnadze’s leadership definitely played a considerable and negative role in security sector governance in Georgia. The crucial importance of the presidential elections on January 4, 2004 as well as of the role the new Georgian president will play in security sector governance need not be stressed.

Furthermore the “Parliament’s weak role is one indication that democratic control is still incomplete. The civilian element of control is also underdeveloped, as the Ministers of the Interior and of Defence, and the heads of the security departments are all generals⁵⁵. The President and the Secretary of the National Security Council are almost the only civilians with any real power at the top levels of the executive”⁵⁶. It can be stated that one of the basic pre-conditions of a democratic oversight of the security sector⁵⁷, a “dividing line” between the political and military leaders, does not exist in Georgia.

Caparini/Philipp Fluri (eds.), *Security Sector Reform and Democracy in Transitional Societies. Proceedings of the Democratic Control of Armed Forces Workshops at the 4th International Security Forum, Geneva, November 15-17, 2000*. Baden-Baden: Nomos 2002, p. 61-67; p. 65.

⁵¹ Ibid., p. 65.

⁵² Ibid.

⁵³ The defence ministry, ministry of internal affairs and the ministry of state security are the so called “power ministries”.

⁵⁴ Darchiashvili David, 'Georgia: A Hostage to Arms' in Matveeva, Anna & Duncan Hiscock (eds.), *The Caucasus: Armed and Divided - Small arms and light weapons proliferation and humanitarian consequences in the Caucasus*, London: Saferworld, 2003, p. 86.

⁵⁵ Until recently, the first exception to this rule was the new Minister of State Security Valery Khaburdzhania.

⁵⁶ Darchiashvili 2003, Op. cit., p. 86.

⁵⁷ For background information on the theory of civil-military relations, see i.e. the classical works of Samuel Huntington, *The Soldier and the State: the Theory and Politics of Civil-Military Relations*. New York: Vintage books 1964, 1st edition 1957 and Morris Janowitz,

Lack of civilian expertise

The above-stated lack of civilian oversight was not only caused by the strong authoritative role of the president and the partly militarized leadership. A second reason is also to be found in the lack of civilian expertise on security and defence related issues. This holds true for civilians in the ‘power ministries’ as well as for the Members of Parliament. As example might be mentioned the apparent lack of knowledge on defence resources allocation by Members of the Parliamentary Defence and Security Committee which hinders to fulfil their oversight and control functions. This absence of knowledge and expertise on security sector related issues is deeply rooted in former soviet times, when there have not been any civilian experts on defence issues at all. In many transitional countries it is still a basic challenge to build up the necessary expertise from the ground up⁵⁸.

Problems in defence budgeting

It goes without saying that the lack of adequate financial means forms a major obstacle to SSR. Nevertheless some of the interviewees clearly see financial problems as painful but as secondary compared to other factors, which have been mentioned above, i.e. the lack of political consensus and will to implement the reforms⁵⁹.

In view of the Defence Resources Management Department within the MoD, the lack of adequate resources forms of course a continuous hardship with the budgetary process. However, it is only one in a long queue of various problems: “It is hard to argument for funds if they do not have a basis”⁶⁰.

A first basic challenge to determine a clear defence budget is caused by the already-mentioned lack of a clear and binding security concept. Therefore those, working on the budget within the MoD state the urgent need of a clear security strategy and a binding concept in order to be able to argument for funds and to get a guideline how to set defence resources priorities.

A second problem in defence budgeting is, that there are no clear and reliable figures on the state income, microeconomic prognosis and socio-economic parameters available. This is why it is extremely challenging to set a frame for the budget. Generally military expenditures only take a very small proportion of the rather vaguely calculated Gross Domestic Product (GDP)⁶¹.

A third challenging factor is, that the Georgian state has only one main treasury, one account for all ministries. This makes transparency extremely difficult and gives free way to corruption.

The Professional Soldier: A Social and Political Portrait. New York: Free Press of Glencoe 1960.

⁵⁸ Referring to an interview with a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs and with a member of a Georgian NGO.

⁵⁹ Referring to an interview with a member of a Georgian NGO.

⁶⁰ Quotation from an interview with a member of the Georgian Ministry of Defence (MoD).

⁶¹ 0,2-0,3 percent in comparison to the average 2-3 percent of NATO states.

Furthermore a fourth obstacle is that personal influences within the Defence Resources Management department negatively affect the budgetary process: “Personal influence is the disease of the moment”⁶².

The budgeting process is still influenced by problems of communication and information sharing amongst those in charge. Some people in the MoD understood how inconvenient the increase of transparency might become and started to fight against new and more transparent budgeting system⁶³. Personal influences are currently a major problem not only in view of defence budgeting but generally a widespread phenomenon within the country⁶⁴. Nevertheless some signs for improvements could be found in the introduction of the new budgetary system:

The Planning Programming Budgeting System (PPBS) was started in 2001. It can be seen as a first step towards more transparency on defence spending. Until 2001 defence budgeting contained only amounts without any explanations. In 2001 for the first time exact and clear defined categories for expenditures were introduced. The MoD has been one of the first ministries, introducing the system and counts on positive experiences made within other countries with the new system, i.e. within the Baltic States. During 2003 British advisors supported the Georgian MoD in implementing the PPBS system.

When talking to a MoD official in September 2002, the assessments on the prospects of the new system have been quite positive: Despite having a strong opposition within the particular department and in the Ministry itself, the new system was generally seen as irreversible. “There is no way back, the implementation will continuously proceed”⁶⁵.

One year later the situation proved much less promising: The Parliament did not adopt the programming budget, because of a row between the MoD and the Ministry of Finance. The Ministry of Finance cut the budget, which had been prepared according to the new system in a way that it had to be drafted from requirements, not preceding budgets. The 2003 budget which had been proposed as 129 million Georgian Lari by the MoD was finally adopted with 78 million Lari. After these severe cuts, the MoD failed to prepare a revised budget applicable to the PPBS approach. The defence expenditures are currently spent according to the old procedures. The development is obviously in the interest of MoD officials not to change the established soviet-type procedures and therefore not to help reducing the level of corruption⁶⁶.

⁶² Quotation from an interview with a member of the Georgian Ministry of Defence (MoD).

⁶³ The PPBS (Programme Process Budget System) has been implemented in 2001 and gives hope for more transparency in defence spending. See details in following section on achievements.

⁶⁴ Referring to an interview with a member of the Georgian Ministry of Defence (MoD).

⁶⁵ Referring to an interview with a member of the Georgian Ministry of Defence (MoD).

⁶⁶ Referring to a recent assessment by a member of a Georgian NGO.

Misuse of international assistance

“50 per cent of EU funds simply vanished in Georgia”⁶⁷

Whereas international aid is supposed to have a quite positive influence on SSR, it is on the other hand confronted by major obstacles and problems: The apparent misuse of international assistance and an obvious lack of coordination in those programmes can be considered as essential draw-back in view of a reform of the Georgian security sector. Just as a small example of the disastrous dimensions of the above described corruption in the country, it might be mentioned, that about 50 per cent of international donor’s contributions tend to vanish in private pockets instead of being used for the sake of democratization and development of the country⁶⁸. Ammunition and equipment, originating from international assistance programmes, have for example been found quite often on bazaars rather than in the barracks; trucks and special transport equipment have been used by the General Staff instead of units within which they were needed and originally supposed to be used. Coordination problems also hindered efficient results: Ammunition and equipment has been delivered, but there was no infrastructure to store it properly⁶⁹.

As a cause of misuse and lack of proper results the interviewees stated a continuous fear that international assistance would break off and leave a chaotic and hopeless situation behind.

Specific problems in view of reforming Armed as well as other Security Forces

Since it is not possible to look within this Chapter at all developments in view of building up as well as reforming security forces in Georgia, just some selected sectors concerning the three main actors: the Armed Forces, Police Forces and Border Guards will be considered.

Generally the picture in Georgia is quite similar to those which are well-known from other transitional countries: the personnel size of security forces is twice or thrice as large as necessary and useful, effectiveness at the same time thrice as low as once can even imagine. This helps bring about various problems: the lack of discipline, low professionalism⁷⁰, deficient education and training⁷¹, extremely low salaries, low morale. Low payments and the lack of basic social securities encourages personnel of law enforcement bodies to abuse their power positions for private income generation by bribery, corruption and other illegal activities⁷². This is why society-at-large is far away from even considering to trust or to respect the country’s security forces.

⁶⁷ Quotation from an interview with a member of the Georgian Ministry of Internal Affairs (MIA).

⁶⁸ Referring to an interview with a member of the Georgian Ministry of Internal Affairs (MIA).

⁶⁹ Referring to an interview with a parliamentary staff member.

⁷⁰ Referring to interviews with several members of Georgian NGOs.

⁷¹ Referring to an interview with a military journalist.

⁷² See also pp. 70.

Given the long list of challenges, the question arises: where exactly to start with a reform? When looking at western models or when checking out security sector success stories, one might rather get depressed: how should this gap be bridged? To underscore the point: it is hard to imagine how Georgian security forces may become strong, disciplined, knowledgeable, prosperous, and respected in one go. Starting with the reforms step by step might sound a little bit more realistic but at the same time it is not quite possible. There is no strength without discipline and education, no discipline and motivation without appropriate pay, and no respect without all other aspects taken together.

The Armed Forces

The reform process of the Georgian Armed Forces (GAF) gives some reason for hope in prospective positive results--most of all because of the immense international assistance. (This issue will be dealt with at more length in the following Chapter). Nevertheless still fundamental problems have to be overcome; the absence of a national security strategy as well as the lack of professional experience negatively influences the reform process: "The current military still lacks both professional experience and a coherent strategy addressing national threats"⁷³.

Furthermore, the formation of the military did not follow any strategic considerations but rather personal influences: "...The Georgian army has been developing according to individual politician's or the military commander's ambitions rather than to a state programme"⁷⁴. Moreover, the "army suffers from frequent structural and staff changes. Finally, what is currently built up follows yesterday's, in particular the Soviet army's, model in miniature"⁷⁵. Thus, "Today's Georgian army is not ready to check possible threats to the country's national security"⁷⁶.

The combat readiness of the Armed Forces is quite low and given the lack of professionalism and the strength of forces, the public at large has little respect for the Georgian military"⁷⁷. Financial problems still crucially affect the restructuring process of the Armed Forces. Downsizing implies financial and social impacts, which cannot be properly addressed yet. Retired militaries' integration into civilian life often fails and results in their participation in corruption and other illegal activities. Beside the lack of financial resources, the absence of motivated and educated officers is also seen as a major problem to a reform"⁷⁸. As an interviewee stated: "A hungry, untrained army cannot defend its country"⁷⁹.

⁷³ Shukuko Koyama, Security sector reform in Georgia. Saferworld, London, 2002, p. 7.

⁷⁴ David Darchiashvili, The Army-Building and Security Problems in Georgia. Tbilisi 1997, p. 3.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Referring to an interview with a military journalist.

⁷⁹ Irakli Seshiashvili, director of the Georgian NGO "Rights and Freedom". Quoted after Maia Chitaia and Nino Zhvania: Hunger, Desertion plague Georgian Army. Georgia's national security at stake as conscript soldiers face chronic hunger. In: Institute for War & Peace Reporting IWPR's Caucasus Reporting Service, No. 176, April 25, 2003, p. 3.

The financial situation aggravated in a way that not only the reform process is affected but also very basic aspects of maintaining the army. Desertion rates increase greatly since conscript soldiers face chronic hunger. The families of the conscripts have to organize food supply in order to prevent their sons from starving. Those who do not get any help from at home have to steal food in order to supplement their meagre rations.

Hunger is certainly one of the main reasons – but not the only one – for the high level of desertion within the Georgian Armed Forces. Soldiers face poor nourishment, shortage of uniforms and medical supplies, low wages and unsafe accommodation.

Under those circumstances military units can no longer afford to be fully manned. Even in conflict prone and security priority regions like the Pankisi Gorge, units are manned to only thirty or forty per cent of the required strength. In 2002 the military recruited just one third of the conscripts in need. Young Georgians on their part try to avoid military service by all means, i.e. by buying an official 12-month deferral⁸⁰.

A member of a Georgian NGO sums it up by stating that the military leadership recognizes that an army which is manned by starving soldiers cannot fight effectively. “So they never train them...As a consequence, the army is not battle-trained. A hungry, untrained army cannot defend its country”⁸¹.

Police Forces

“Why die for nothing?”⁸²

According to statements of the deputy minister of the Interior, there are currently up to 60 000 police officers in Georgia. Other estimates range about at least 40 000 policemen⁸³. An urgent necessary reduction of the personnel implies the same financial and social impacts as mentioned above in regard to the Armed Forces.

Since the official salaries of police officers are extremely low it is widely accepted that they make money by bribery and corruption and that they carry out extortion and racketeering against individuals and small business⁸⁴.

Opportunities for illicit income-generation make the profession of a police-officer quite attractive. Since there are no major obstacles to becoming a police officer (usually it can be done by bribing the officials in charge), the number of police personnel continued to grow. It seems to be self evident that a policeman who does not even earn enough to support his own family, would not fight corruption or illegal mafia activities, following the motto: “Why die for nothing?” Economic problems are therefore closely related to a basic absence of a

⁸⁰ See Chitaia, Zhvania 2003, op. cit., p. 2.

⁸¹ Irakly Seshiashvili quoted after ibid.

⁸² Quotation from an interview with a member of a Georgian NGO.

⁸³ Referring to an interview with a member of a Georgian NGO.

⁸⁴ Darchiashvili 2003, op. cit., p. 76.

professional ethic and also a crucial lack of motivation. The result is a high demoralization of Georgian police⁸⁵.

The lack of appropriate professional qualifications to enter the profession also means the absence of adequate training and education.⁸⁶ Foreign assistance programmes started to offer training courses for Georgian police officers. Most of the courses focus on Human Rights related aspects. OSCE Training Programmes started to broaden the perspective and offer training courses on specific issues, i.e. domestic and gender-based violence⁸⁷. Human rights training courses for police officers have been organized by the Swedish government in cooperation with the United Nations Development Programme and the Public Defender's Office. Donors and human rights oriented non-governmental organizations promoted human rights issues among police officers. Still, police academy classes on human rights are not compulsory for graduation or promotion in the police organizations⁸⁸.

Basic consequences of the lack of professionalism and education, along with frequent criminal activities are the crucial absence of a trustful and respectful relationship between citizens and police. Lack of professionalism and corruption among police officers is named as one of the major reasons, why government lacks legitimization, respect and reliability from the general public⁸⁹. For many Georgians, police forces mainly exist in order to support the state authority and those in power rather than the citizens⁹⁰. Since the state law enforcement bodies fail to establish the rule of law within the country, the clan system and other mafia structures started to provide their own informal justice mechanisms⁹¹.

Since they range among the most important supporters of the ruling elite, police forces are consequently excluded from any serious reform attempts⁹². "For many years, the MoI was the stronghold of the ruling elite and enjoyed the unofficial right to engage in ... illegal activities"⁹³. "Until very recently, the state leadership took no effective measures to stamp out such practices. The Council for Anti-Corruption Policy set up by the president had little impact"⁹⁴.

An effort towards an improvement of the situation was finally taken in February 2002, when the Georgian president established an Interagency-Commission (based on a presidential decree, issued on 6th December 2001), which had to elaborate a concept for a reform of the Security and Law Enforcement Services of Georgia. The current version

⁸⁵ "Violations of human rights, torture, illegal arrests, extortion of money from business people, drivers and criminals, bribery, falsification of the results of investigations, involvement in crimes and assassinations became the usual practice of the police forces." Kukhianidze 2003, op. cit., p. 6-7.

⁸⁶ Referring to an interview with a member of a Georgian NGO

⁸⁷ See: OSCE begins training for Georgian Police Officers on combating domestic violence. To be found at: http://www.osce.org/news/show_news.php?id=3330

⁸⁸ Koyama 2002, op. cit., p. 13.

⁸⁹ Referring to an interview with a Member of a Georgian NGO.

⁹⁰ Koyama 2002, op cit, p. 8.

⁹¹ UNDP Human Development Report: Georgia 2000, UNDP Country Office, Tbilisi, p. 72, cited after Koyama 2002, op cit, p. 9.

⁹² Refer to Koyama, op cit, page 8.

⁹³ Darchiashvili 2003, op. cit., p. 76.

⁹⁴ Ibid., p. 77.

of the reform concept has been put online along with a series of recommendations by foreign experts and institutions (i.e. recommendations by the Committee of Ministers of the Council of Europe). The concept is publicly available via the website of the Georgian supreme court⁹⁵ and starts with the promising insight that “The process of democratization and reforms of the Police in Georgia can only be based on firm political will”⁹⁶ and furthermore states that “The police should comply with the demands of democratic society in order to represent the institution – the guarantor of the democratic state”⁹⁷.

On the one hand, the concept is much more precise in giving measures to improve the performance of Georgian law enforcement agencies than any other paper before; on the other hand, it has not been adopted yet as formal document. It still has to be approved and signed by the president in order to become a binding and official guideline. Even if the concept will be adopted, it won't guarantee a successful reform process, since the power ministries as well as the procurator's office are reluctant to any reforms within their agencies⁹⁸.

Nevertheless, statements of the Minister of Internal Affairs Narchemashvili on the need for reform raise some hopes. “Narchemashvili argues that he belongs to a new generation of lawyer-reformers and would like to leave a positive legacy. Some district police officers were dismissed. However it is difficult to say whether the reforms are genuine or if this is merely a tactical move by the police”⁹⁹.

The Border Guards

“The Pankisi Gorge incidents showed how much border incidents and a lack of efficient border controlling is affecting national, transnational and international security”¹⁰⁰.

Generally it can be concluded that poorly equipped, hardly trained and meagrely paid Georgian Border Guards are not able to sufficiently and effectively control the country's borders¹⁰¹. Failures in border-management had, recently, major impacts on the country's security: Chechen rebels crossed the borders, entered the Georgian territory and found refuge in the Pankisi Gorge. Russia, accusing Georgia of supporting Chechen rebels and terrorists, started bombing Georgian

⁹⁵ See: <http://www.supremecourt.ge/english/About.htm> →Public Information --> Reform Commission of the Law Enforcement and Security Agencies → Concept of the reform of the Security and Law Enforcement Services of Georgia.

⁹⁶ See concept of the Georgian Police Reform, page 1. Annex XI to the Concept of the reform of the Security and Law Enforcement Services of Georgia. To be found at: <http://www.supremecourt.ge/english/About.htm> →Public Information --> Reform Commission of the Law Enforcement and Security Agencies → Concept of the reform of the Security and Law Enforcement Services of Georgia.

⁹⁷ See Concept of the reform of the Security and Law Enforcement Services of Georgia, page 13. To be found at: <http://www.supremecourt.ge/english/About.htm> →Public Information -> Reform Commission of the Law Enforcement and Security Agencies → Concept of the reform of the Security and Law Enforcement Services of Georgia.

⁹⁸ Quotation of an interview with a member of a Georgian NGO.

⁹⁹ Darchiashvili 2003, op. cit., p. 77.

¹⁰⁰ Quotation from an interview with a member of a Georgian NGO.

¹⁰¹ Referring to an interview with a member of a Georgian NGO.

territory. The incident has shown how many failures in border-management and -controlling may affect national as well as international security¹⁰².

Smuggling and trafficking at Georgian borders forms an additional and general problem, especially since Georgia does not confirm the secessionist territories Abkhazia and Ossetia as external territories. Georgian authorities do not employ Border Guards at these borders, because if they would do so it would be considered as recognition of the independence of the secessionist territories. Therefore those borders are not controlled as inter-state borders and especially prone to any trafficking, drug and weapon smuggling activities: “Corruption, organized crime, trafficking in drugs and weapons, terrorist acts and participation in smuggling through their territories became a profitable business for all sides of conflicts: Russian, Georgian and Ossetian criminals, peacekeepers, law enforcement bodies, and Georgian partisans in Abkhazia”¹⁰³. It has been clearly stated that “smuggling and organized crime through Abkhazia and South Ossetia can be minimized only in close cooperation between Georgian, Abkhaz and Ossetian law enforcement bodies”¹⁰⁴.

In 1999 the OSCE Mission to Georgia was mandated to observe and report on movements across the Chechen segment of the Georgian-Russian border. The mandate was enlarged to further segments in 2001 and 2003. Within the cooperation programme the OSCE border monitors are accompanying Georgian Border Guards while fulfilling their daily duties.

In June 2003 a 100 000 Euro grant from the European Union was used to purchase equipment for Georgian border guards in order to improve the joint border monitoring of the department of the Georgian State Border Protection and the OSCE Border Monitoring Operation. However those grants and aid programmes seem to be a drop in the ocean in view of the tremendous amount of illegal activities along mostly unprotected Georgian borders.

¹⁰² Referring to an interview with a member of a Georgian NGO.

¹⁰³ Kukhianidze 2003, op. cit. p. 8.

¹⁰⁴ Ibid.

Chapter 3

Security Sector Governance in Georgia (II): Achievements

Antje Fritz

Achievements and Positive Trends

Despite major challenges and obstacles, there have been positive developments and considerable steps into the right direction. We will focus on four relevant trends: an apparent tendency towards transparency enhancement, a positive and ongoing process in training and professionalisation of the Armed Forces, general promising signs for a slow but continuous system change, and efforts to adapt and coordinate international assistance. After all, “At least, the threats are transparent”¹.

As a crucial positive starting point one might state that none of the mentioned challenges to SSR are seen as absolute or insoluble problems and in comparison to the still-vivid soviet past. An extremely important step has already been taken: the threats and challenges are transparent² and therefore have a chance to be addressed and tackled. The pressure to elaborate further a national security concept as well as to adopt a binding SSR concept is increasing and coming from all kinds of political actors: from NGOs, parliamentary staffers as well as various members of the MoD who demand a transparent and precise programme as well as binding and reliable directives and guidelines. “In general I would be optimistic about the reform process... If we conduct reforms effectively we would be able to join MAP”³.

The decision of the National Security Council to develop cooperation with NATO seems to give hope, if not more, for an acceleration of the process. The government is well aware that reforms are a crucial condition for entering the preparatory phase to join MAP⁴. It is clearly seen, that the quite powerful incentive of joining MAP cannot be reached without a quite swift and effective implementation of necessary standards⁵.

¹ Quotation from an interview with a member of the Defence and Security Committee of the Georgian Parliament.

² Referring to an interview with a member of the Defence and Security Committee of the Georgian Parliament.

³ Quotation from an interview with a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs.

⁴ NATO Membership Action Plan

⁵ Referring to an interview with a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs.

Therefore, we may state a starting point which is not as bad as might have been assumed: there is a general will to proceed with the reforms and a concrete knowledge on the traps which are to be found on the way.

First signs of improvement

“The pyramid is getting holes”⁶.

According to some interviewees there are first signs of a general system improvement. They state a general societal transformation process, which is irreversible and also affects the security sector relevant structures. They are positive that the transition process towards a democratic society will proceed successfully⁷.

It has been stated, that the first “holes” have appeared in the “corruption-pyramid”, mainly as a result of the dismissal of highly corrupt personnel and their replacement by members of a “new generation”. Ministers as well as head of units within the Ministry of Internal Affairs and the Ministry of State Security have been removed from office, ones who have been said to be deeply involved in criminal activities⁸. The newly appointed officials in charge seem not to be involved in illegal processes and obviously try to stay out of the usual mafia-pyramid. The leadership of the Ministry of Internal Affairs is said to be dedicated to reforms. Those examples for transformation and a change of political generations are made public and seem to give a certain hope for an improvement of the situation⁹.

The downfall of Shevardnadze and his clan has also had positive effects. The Shevardnadze clan in itself was the most visible symbol of the corrupt and clientelist society. As long as the leader of the state was the most obvious representative of the detrimental structures, no change could be expected.

Achievements in transparency

Considerable improvements are to be noted in view of transparency of security structures as well as of defence spending. Of particular importance are the concept of the reform of the Security and Law Enforcement Services of Georgia, the MoD White Paper, the new PPBS¹⁰ budgeting system which is providing more transparency in defence spending, and, finally a close cooperation of the MoD with the NGOs and interested public.

⁶ Quotation from an interview with a member of a Georgian NGO.

⁷ Referring to an interview with a Member of the Georgian Ministry of Defence (MoD) and to a member of a Georgian NGO.

⁸ Minister Targamadze, the founder of the MOI empire has been dismissed and replaced by his deputy, Koba Narchemashvili. See also: Darchiashvili, 2003, op. cit., pp. 76-78.

⁹ Referring to interviews with a military journalist and a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs as well as members of Georgian NGOs.

¹⁰ See pp. 65.

The Concept of the Reform of the Security and Law Enforcement Services

As already mentioned before¹¹, the concept of the reform of the security and law enforcement services, elaborated by an Interagency Commission, has been made publicly available with a series of relevant expert's and institution's recommendations, including recommendations adopted by the Council of Europe on the role of public prosecution in the criminal justice system, recommendations on the Police Ethics Code, furthermore concepts of the reform of investigation and of the reform of procuracy, a concept of the police reform, a concept on the reform of the ministry of state security etc. The web-publication of the concept as well as other relevant material¹² might be seen as a first step towards a public dialogue and public involvement in the reform process.

The MoD White Paper

As mentioned in the preceding Chapter, the White Paper is seen as a first step towards more transparency and public involvement in security related issues. At the same time it has been criticized for not going far enough, i.e. for not containing a more precise reform concept¹³. Nevertheless it cannot be excluded from the section on achievements. Most of the interviewees mentioned it proudly as a first and remarkable step into the right direction, especially as a sign that the government understood the importance of transparency in view of defence and security related issues¹⁴. Looking on the Paper from the perspective of somebody who has a soviet past and experience, it is a huge step towards transparency, public involvement and participation in the reform process. And seeing it in relation to the historic background, where transparency and public involvement were simply not imaginable, one may also understand the motivation the paper triggered within the strategic community. Not only MOD officials and parliamentary staffers, but also members of NGOs, working within the field of security policy and civil-military relations, welcomed this paper with a considerable hope that the real reform process finally and irreversibly has started.

Increasing transparency in defence spending

Similarly, there is a quite optimistic assessment of the introduction of the new PPBS budgeting system. It is supposed to provide enhanced transparency in defence spending. It has also been stated that meanwhile the process of introducing the system has been blocked. Despite this drawback, the system need not be described as entirely failed. Taking

¹¹ See pp. 70.

¹² See: <http://www.supremecourt.ge/english/About.htm> →Public Information --> Reform Commission of the Law Enforcement and Security Agencies → Concept of the reform of the Security and Law Enforcement Services of Georgia.

¹³ Referring to an interview with a Member of the Defence and Security Committee of the Georgian Parliament.

¹⁴ Referring to an interview with a member of the Georgian Ministry of Defence (MoD).

the circumstances into account it does not make sense to expect that such a process is going smoothly without any hindrances. It is a complicated system and time is required to comprehend and implement it. Thus, even if it will take some time, one may state that a first and important step is done and that at least with some pressure of the international community, the process of introducing the new system will be on the right tracks.

Cooperation with NGOs and interested public

Tense relations with Russia on the one side but also the engagement of the West in security related assistance programmes on the other - especially the American Training and Equipment (T&E) programme¹⁵ - caused a considerable public interest in defence and security related issues. This can be seen in quite extensive media coverage on defence issues. Some papers even dedicate up to one fourth of their coverage to defence related information¹⁶.

Understanding the importance of a public attention and interest towards the reform issues, the MoD follows an open policy towards interest and active involvement of NGOs and the general public¹⁷. Admitting, that MoD issues are still not transparent enough, at least some departments try to be as open as possible. They keep a good and close relationship to NGOs, appreciate their interest and keep them updated on new developments¹⁸.

Training and motivation for the Armed Forces

The reform process of the Armed Forces is said to be proceeding well while considering NATO standards as well as general western advice as basic guidelines. Western advisors are not only appreciated as trusted and respected experts but also seen as main source for motivation and hope in success of any reforms¹⁹.

The obvious engagement and interest by the West, which found a new peak in the American Training and Equipment Programme (T&E programme) considerably increased the motivation to continue with the reform process and is generally seen as sound basis for a professional army-building process.

The over USD 60 million worth of assistance is provided to train and equip about 2000 Georgian soldiers within the overall framework of the American anti-terrorism campaign. Members of the Armed Forces as well as of other security forces are undergoing the intensive training programme, which is supposed to result in a basis for a well trained, reliable and disciplined army²⁰. Media echo as well as expert views on

¹⁵ The over 60 million worth of assistance is provided to train and equip about 2 000 Georgian soldiers within the overall framework of American anti-terrorism campaign.

¹⁶ Referring to an interview with a military journalist.

¹⁷ Referring to an interview with a member of the Georgian Ministry of Defence (MoD).

¹⁸ Referring to an interview with a member of the Georgian Ministry of Defence (MoD).

¹⁹ Referring i.e. to an interview with a Member of the Georgian Defence Academy and to several members of Georgian NGOs.

²⁰ Referring to an interview with a military journalist and to a member of a Georgian NGO.

this programme show the importance of such a project, not only in view of training and professionalisation of the Armed Forces, but much more in view of the motivation which has been triggered by this new sign of international engagement and support²¹.

Coordinating international assistance

Western assistance is clearly seen as fundamental for any success in SSR and it has been understood, that a crucial matter of concern is the proper use of foreign aid. Initial steps have been taken to arrange programmes which help to coordinate different support projects and try to guarantee their most effective use. An example of those positive coordination-efforts has been launched by the Parliamentary Defence and Security Committee, which arranged meetings with the military attachés of those countries, supporting Georgia in its reforms in order to start a comprehensive coordination of useful assistance programmes, which also take into account the current infrastructure, as well as capacities and challenges caused by corruption. The feedback on those meetings has been quite positive²².

A Swiss pilot project has also been mentioned, which takes into account corrupt structures by purchasing necessary equipment in Georgia and handing it over directly to the departments in need without involving any money transfer²³. Those pilot projects may help to avoid mismanagement in view of international assistance and help to built up sustainable donors' involvement in the process. Seeing those efforts as valuable steps within the reform process it should of course be mentioned that an effective coordination finally only can take place when clear priorities are set by the government.

Prospects for the Future and Factors for Success and Failure

“Reforms will be definitely implemented. It only takes time”²⁴.

We asked the interviewees on prospects for the future and factors for success and failure in view of a democratic governance of the security sector. The following picture is a selection of the most important factors, which determine the future reform process.

Generally there have not been any far-reaching doubts in a final success of a democratic reform of the security sector, even if it is admitted, that it probably would take quite a long time to implement the democratic changes. However there are a lot of uncertainties in view of concrete prospects of the next years and quite a lot of different variables and factors, determining anticipated developments:

²¹ Referring to an interview with a military journalist and to a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs.

²² Referring to an interview with a parliamentary staff member.

²³ Referring to an interview with a member of the Georgian Ministry of Internal Affairs (MIA).

²⁴ Quotation from an interview with a Member of the Georgian Defence Academy.

The role of international assistance

International support in SSR is clearly seen as most fundamental factor in view of a successful implementation of the reforms in future. The following quotations of our experts' statements mirror their concerns in this direction:

The prospects of security sector reform depend on the involvement of international aid. Our own forces and energy are not strong enough. We need Western assistance on educational and strategic level. If the assistance will remain, the SSR has a chance to progress. In case Western support would stop, no chances would be left for any progress²⁵.

“During the past years we saw what Georgia can do by itself: We saw that we can do nothing! We need the Americans and their Training and Assistance Programmes”²⁶.

“I hope the Americans do not let Georgia down. They are stakeholders now”²⁷.

There is no doubt that the Georgian perspective clearly sees international support and assistance as basic factor and absolute necessary precondition for the success of Security Sector Reform. Georgians seem to be convinced, that, if the West would let them down and stop supporting them a total failure not only in view of a reform of the security sector but also of democratization in general is to be expected. Furthermore it has been repeatedly stressed how important a general support and cooperation concerning democracy-building and a basic development of the whole country would be. Hopes are especially linked to Turkey, Germany, US, France, Switzerland, as well as to UN, EU and NATO. Assistance is especially appreciated and needed with regard to training, education and qualification of militaries as well as civilians. Those assistance programmes are seen as basis for any future prospects of SSR in Georgia²⁸. In view of a time-wise perspective most experts are convinced, that international and especially American interest in Georgian SSR clearly helps to speed-up the process²⁹.

The role of national motivation

“We need readiness and motivation from our side”³⁰.

²⁵ Quotation from an interview with a member of a Georgian NGO.

²⁶ Quotation from an interview with a Member of a Georgian NGO.

²⁷ Quotation from an interview with a member of a Georgian NGO.

²⁸ Referring to interviews with a member of the Georgian Ministry of Internal Affairs (MIA), with several members of Georgian NGOs, with a parliamentary staff member and with a member of the Georgian Mission to NATO within the Ministry of Foreign Affairs.

²⁹ Referring to an interview with a member of a Georgian NGO.

³⁰ Quotation from an interview with a member of a Georgian NGO.

“We have to sit down like the Estonians and say ‘We have Zero’ and start building everything from the scratch”³¹.

“For 200 years we had no state, no army...Now it is most important to get a strategy. That is very difficult, because we have to start from Zero-position. But we will try...”³².

International assistance is certainly a crucial aspect in view of Georgian security sector reform but an even more important point is the role of national motivation and self-confidence within the reform process. Like in Estonia or Latvia also in Georgia the state and governance structures have to be built from *ab initio*. Those states naturally face great additional challenges in reforming their Armed Forces and security structures than long established states. The interviewees quite often alluded to the magic number “Zero” when referring to this fact. The awareness of having no own historical experiences on which they could built up an own success-story appears as a quite strong psychological burden. “Zero” experience and knowledge is clearly seen as a “Zero” basis for the “reform”. Quotation-marks are used here because it has been stressed that “reform” is not quite the right word. There was more or less nothing to reform in Georgia. The first roots of the Georgian Armed Forces appeared spontaneously, without any strategy or concept, within chaos at the beginning of a civil war. Therefore the interviewees’ statements refer to a complete new construction of the security sector rather than to its “reform”.

This magic figure “Zero” is a quite relevant factor in Georgian SSR and nothing can counter it but national motivation and self-confidence. However, statements on confidence in Georgia’s own will and energy to successfully proceed on the democratic path have been quite rare.

While the interviewees hardly mentioned any conviction to be able to rely on the own national will and energy, “International Assistance” or “Western support” are dominating expressions which have been repeated like magic incantations when talking on a prospective success of Georgian Security Sector Reform.

The role of political goodwill

Speaking on national motivation in a country where the nation’s fate is almost exclusively determined by governmental actors, we cannot forget the political good will of the government as crucial factor, determining the future of Georgian SSR: “The prospects depend on how far the politicians are willing to move the reforms”³³.

Basically no one seems to doubt that capacities and knowledge for the conceptualization is available. However, in the end everything depends on the political will to give concrete directives and elaborate a

³¹ Quotation from an interview with a Member of the Defence and Security Committee of the Georgian Parliament.

³² Quotation from an interview with a Member of the Georgian Ministry of Defence (MoD).

³³ Quotation from an interview with a member of a Georgian NGO.

consistent strategy, which could be used as binding guideline for all those involved in security sector reform. Such an official obligation and commitment would have to be launched and seriously promoted by the government. As long as there is no binding and officially adopted security concept available, no effective improvement of the situation can be expected³⁴. The role of the new government will be the deciding one in this regards.

The importance of political stability

Needless to say, without political stability there will be no democratisation in the country during the upcoming years. Everything depends on the ability and willingness of the new government to proceed with the democratization process and the implementation of the reforms. The presidential elections in January 2004 as well as the months under the new government provide a test of the stability of Georgian democracy³⁵. The international community is obviously ready to support Georgia in securing the stability in the country: Several million Euros have been for example pledged by OSCE participating states for the “Georgia Elections Assistance Programme”³⁶.

General democratization and change of mentality

“If the democratic change in Georgia will be successful, the governance of the security sector will also have a chance to change in a positive and democratic way”³⁷.

The general importance of democratization and democracy-building as a basis for a democratic governance of the security sector has been stressed quite often. And, furthermore, for a general democratization a change of mentality is seen as crucial pre-condition. As stated before, soviet legacies still have strong influence and impact on all kind of societal and political life and prevent democratic changes³⁸. The future of the general transformation process will determine the future of a democratization of the security sector and the other way around³⁹.

Priorities and Recommendations for SSR and International Involvement in the Reform Process

The interviewees were finally asked on priorities and recommendations in view of the implementation of SSR in Georgia. The recommendations will be divided along the lines of national and international implications.

³⁴ Referring to interviews with a Member of the Defence and Security Committee of the Georgian Parliament and with several members of Georgian NGOs.

³⁵ Quotation from an interview with a member of a Georgian NGO.

³⁶ See: OSCE States pledge almost four million euros for assisting Georgia in 2004 elections. Article to be found online at: http://www.osce.org/news/show_news.php?ut=2&id=3792

³⁷ Quotation from an interview with a member of a Georgian NGO.

³⁸ Referring to an interview with a member of a Georgian NGO.

³⁹ Referring to an interview with a military journalist and to a Member of the Georgian Ministry of Defence (MoD).

The first aspect considers actions and steps to be taken on a national level. The second aspect considers implications for international assistance and support.

Implications: The National Dimension

A first rank priority is the adoption and promotion of a national security concept as well as a concrete and precise concept for the security sector reform in Georgia. The reform plan has to include not only NATO requirements for joining MAP or list recommendations of foreign advisors; it also has to take into account the basic question: “What actually does SSR mean for Georgia?” and “What are the implications for a binding implementation of such a reform?” Those considerations should include the following questions: “What are the main obstacles to Georgia’s democratization? What are the primary challenges to its security? Are the current military, police, border guard and intelligence structures capable of responding effectively to those challenges? Why not? What are the priority areas for a reform? What are the domestic and institutional barriers to a reform? There are of course other questions”⁴⁰. The concept should be precise in view of structures, institutions and responsibilities and give concrete directives for implementation to persons accountable and in charge.

The conceptualization of SSR should build up on a national consensus. Therefore a range of political actors as well as the general public have to be involved in this process. Requirements as well as developments must be made transparent. Transparency has to be promoted in view of all SSR-related aspects. Successful cases should be publicised in order to motivate actors as well as the general public.

Not only the Armed Forces, but also other security forces, most of all police forces, have to be reduced to size appropriate and affordable and be restructured in a professional way. Increased salaries and social securities should be provided in order to prevent corruption and illegal activities of the personnel. Furthermore civilian, especially parliamentary control over the armed and other security forces has to be firmly established. The implementation of Disarmament-, Demobilisation, Reintegration- and Retraining- programmes is of crucial importance.

Restructuring processes in the government must focus on the separation of responsibilities and improved decision-making processes. Some experts also suggested an improvement of legislation and a reform of the court system. The need to develop a proper crisis management system was also stressed out in the interviews.

Implications: The international dimension

The International Community has to go beyond its one-sided approach, which concentrates on supporting the reform of Armed Forces. It has to bolster its assistance in view of a reform of internal security forces,

⁴⁰ Assessment and recommendations by Marina Caparini, Senior Fellow, Geneva Centre for the Democratic Control of Armed Forces, Geneva.

particularly the police forces. This is especially important since the Police forces are at the very heart of a society and interact with public and societal life on a daily basis. As law enforcement body, they form the direct arm of the government and therefore strengthen or weaken directly governmental legitimization.

Democratization has no chance without a reformed police, since democracy has to be based on the rule of law. Equally important is training and reform of the border guards. An effective border management system will help preventing conflicts with neighbouring countries. A reformed and more effective border management system will also help preventing smuggling and trafficking and is therefore not only of importance for Georgia, but for the whole region.

Training and educational programmes have to be launched and existing ones further supported. Additional training is necessary for a wide range of military, political and other societal actors. Programmes should be focused on Armed Forces, Internal Security Forces, including Police and Border Guards, but also on civilians in defence structure, including civilians within the ministries, parliamentarians, and civil society in general. Therefore the Military Academy as well as other institutions needs to start long-term training programmes for civilians in defence affairs. Civic education-programmes should be conceptualized in view of general democracy-building but also in view of democratic civilian involvement in security issues.

Support should be provided in view of parliamentary involvement and oversight of the security sector. International assistance has to help strengthening knowledge and expertise among parliamentarians and staffers with the help of specialized training programmes.

Civil society building is in need. A further withdrawal of the society from public concerns has to be prevented. International assistance has to invest in civic education and civil society building. It is crucial to help making democracy as well as democratic oversight over the security sector understandable. The role of donors in this respect is crucial: they must send clear messages, that political leadership as well as civil society are all participants in efforts to improve security. Furthermore donors should seek local organizations with ties in the Georgian community, in order to bring SSR into the own local agendas⁴¹.

International assistance is generally and basically in need of cooperation and coordination. Various programmes and efforts have to be coordinated and re-evaluated in view of efficiency. Despite “conditionality” is quite often considered as politically incorrect, international assistance should be at least conditional on i.e. respect for the rule of law and human rights⁴². A certain political will and at least a basic processing of the reforms, not only in view of Armed Forces and MoD, but in view of all security forces and their related agencies, should serve as measure for the assessment of prospective support programmes.

⁴¹ See Johanna Mendelson Forman: “Promoting Civil Society in Good Governance: Lessons for the Security Sector”. DCAF Working Paper Series No. 29, page 15.

⁴² Born 2002, op. cit., p. 66.

Democracy building has to be supported in general. A system of democratic and understandable values has to be established in order to support a change of mentality. Root causes of bad governance of the security sector have to be considered in the assistance programmes. Therefore enhanced support of anti-corruption programmes are a need.

Financial aid and support with technical equipment has to take corruption into account, i.e. assistance has to be adapted: direct hand over of equipment rather than money transfer to non-transparent accounts.

Assistance in stabilizing the security environment and settling frozen conflicts in the Caucasus region would help providing a solid basis for reforms. Long term international back-up against aggressive territorial infringements would help to free resources and invest them in democratic reforms of SSR rather than in efforts to enlarge combat readiness.

Training and seminars on professional state-management are in need, as well as assistance in creation of a state-management culture.

Conclusion: Reforming the Reform

The Security Sector Reform in Georgia is in need of a reform. The current reform is leading to nowhere⁴³.

One of the main conclusions from the preceding sections might be that the security sector reform in Georgia is in need of a reform. Considering the main points of what was said before, one might conclude, that such a reform should have an external as well as an internal dimension. One also might call it an international and a national dimension.

The international dimension

The international assistance has to shift its focus. On the one hand it is taken for granted that SSR must be seen in a general frame of democratization and democracy-building and cannot be promoted as a separate issue (as well as the other way around democratization itself is not possible without an effective reform of the security sector). Nevertheless this insight seems not to be reflected in international assistance programmes. International support is still focusing on a reform of the Armed Forces, which is certainly an important part for the country's and region's security. However another crucial factor is the countries democratization. Just as important elements in view of democratization are internal security forces and law enforcement bodies as direct links between government and society. Without a reform of Georgian law enforcement bodies, especially police forces, general democratization will not be able to succeed.

A basic and most important conclusion is that international assistance has to be directed to reinforce its support of a reform of the police and internal security forces. Given the crucial importance of

⁴³ Quotation from an interview with a member of a Georgian NGO.

police forces within a society - and especially a society in transition - donors have to become aware of the implications and gather efforts and energy to help transforming the internal security actors.

Furthermore an intensified cooperation and a coordination of SSR-relevant programmes would be in need – always keeping in mind, that SSR cannot be seen as isolated undertaking. Therefore not only mere security sector related, but also general assistance in democracy-building would have to be taken into consideration when coordinating relevant assistance.

Such coordination would also help to develop a joint assistance policy, which would eventually be able to link support to a minimum of concrete results. We do not mean that support should stop in case reform would not be implemented fast and successful enough. But pre-conditions in view of assistance programmes must more clearly be promoted as incentives to further proceed with the implementation.

Coordination would also help evaluating success and failure of support programmes. It might help determining the further direction of assistance, especially in view of the given background, i.e. the corruptive structures.

The national dimension

International assistance cannot help reforming the security sector without national motivation. Domestic will is crucial for the reforms. So far Georgia has made a good start, as shown, for example, in the Defence White Paper - despite its flaws – and in the Police Reform Concept. Both are considerable ventures in transparency. Furthermore Georgia is an active PfP partner and open to international advice, assistance and models, i.e. to be seen in the adoption of western legislation and the PPBS budgeting system. Nevertheless, receiving advice and assistance is not enough. A country and most of all its government should know where it wants and needs to go. It is not sufficient to wait until Georgia is told by NATO how and what to reform. It is of great importance to undertake itself the step to identify the specific national interests and requirements and then build a political consensus on a respective reform plan⁴⁴.

Political goodwill alone is maybe the first and foremost important aspect to trigger a positive process, but it also would not be able to succeed without a broad national consensus, getting backing from all kinds of political actors as well as the general public. And here again one should stress the importance of transparency on the one hand and civil-society-building on the other. National security including the reform of the security sector must become a transparent issue, discussed and promoted publicly. The role of civic education on those issues as well as on general democracy related aspects is of crucial importance.

Whatever the reasons for the failure to take the necessary steps towards a concrete reform plan are – domestic constraints, persistence of

⁴⁴ Assessment by Marina Caparini, Senior Fellow at the Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, Switzerland.

old-guard nomenklatura in key positions, clientelism and corruption etc.
– the step has finally to be taken - and this by the country itself.

Chapter 4

Problems of Post-Conflict Public Security Management in Georgia

Kornely Kakachia

The Political Situation in the Conflict/Post-Conflict Area

Georgia's political landscape changed substantially last autumn after the so called "Rose Revolution" in November 2003. Since the election of President Mikheil Saakashvili in January 2004, questions have been raised regarding the ability of Georgia's new government to make good on its promises to improve political and economic life in Georgia. After assuming the presidency, Saakashvili has insisted that he seeks to transform Georgia from a fractured, failed-state into a prosperous democracy. Accordingly, his stated policy priorities have restored the country's territorial integrity and curbing corruption. And indeed a good start has been made in addressing the structural problems facing Georgia, tackling, for example, endemic corruption, which has harmed every facet of life in Georgia. The nation-state's finances are now on a more stable path to recovery. Revenue collection has increased, allowing the Georgian government to pay salaries on time. Reform of public security sector has begun, (structural reforms and staff reshuffling have been initiated in the Ministries of the Interior, Ministry of Defense, General Prosecutor's office, Ministry of State Security) and a new tax code has been presented to parliament as well.

However, Georgia yet suffers from a dormant conflict and latent small-scale warfare in separatist regions. Consequently, the political status of the breakaway provinces of Abkhazia and South Ossetia is still unresolved. Isolated outbreaks of violence continue to erupt in South Ossetia. The government was unable to solve the crisis in South Ossetia in August 2004 by the revolutionary charge. This heralded the time for a more weighted, long-term approach and forced government to deal with its secessionist province, using the "economy first" policy. However, time for "economical intrusion" had been lost.

The Abkhaz separatist dispute after the so called "Presidential election" also continues to absorb much of the government's attention. The tension is largely due to the surprise defeat of former *de facto* Prime Minister, Raul Khadjimba, who was Moscow's choice to replace Ardzinba. The central government has done well to remain demonstratively neutral, not interfering in events. This prudent determination of the government both strengthens its own position and, by comparison, undermines Moscow's stance. While a cease-fire is in effect, about 300,000 internally displaced persons (IDPs) who were driven from their homes during the conflict have yet to return home. The

new Georgian government has offered the region considerable autonomy in order to encourage a settlement, which would allow the IDPs, the majority of whom are ethnic Georgians, to return home, but the Abkhaz still insist on independence. Hopefully, the political situation after the Abkhaz "Presidential election" will give new impetus to the peace process. Generally, so called "frozen conflicts", continue to represent a danger to stability, since the resumption of violence can never be excluded.

The Russo-Georgian relationship remains tense. Over the past five years, these relations have been characterized by tension, threats, recriminations, and mutual suspicion. Saakashvili's unequivocally pro-Western orientation, in particular, Georgia's ambition to join NATO, and the recent promise that he will integrate Abkhazia and South Ossetia into Georgia by the end of his presidency cause outrage in Moscow. Russia still continues its strategy of dragging out and stalling negotiations with Georgia, seeking to limit the presence of OSCE and UN monitors along the borders of the separated regions, condoning local separatist militia and maintaining its "peacekeeping" forces. Moreover, the Russian Duma has passed a declaration wherein it openly considered the possibility of an integration of South Ossetia and Abkhazia into the Russian Federation. The Ministry of Foreign Affairs of Russia has openly said that its main goal is to protect their citizens in the region. (Russia has granted citizenship to the individuals in these breakaway regions in a speedy manner, hence breaking all international rules and legal procedures.) On the other hand at the Parliamentary Assembly of the Council of Europe (PACE) on 7 October, Georgia accused Russia of double standards when dealing with its internal (Chechnya) and external (Abkhazia, South Ossetia) problems and questioned Russia's ability to act as an effective mediator in these conflicts. Tbilisi assumes that Russia's main goal at this stage is not to resolve the conflicts in Georgia, "but to maintain the status-quo and to use these conflicts as a tool to pressure Georgia. This is the unfortunate reality"¹. In response, Russia stated that Tbilisi is "preparing public opinion" for a possible military resolution to the Abkhaz and South Ossetian conflicts². All these political factors of course have a huge influence on internal security problems.

The Main Political Factors Affecting Internal Security Issues

Since its declaration of independence in April 1991, Georgia's sovereignty has been challenged by civil war and by secession attempts on the part of Abkhazia and South Ossetia. Negotiations on the reintegration of these two entities through federalization have failed. The Russian Federation, UN, and OSCE were involved in a series of negotiations on a federal division of powers between Georgia, Abkhazia, and South Ossetia, but these negotiations did not achieve any practical results. It should be noted that Russia's interests in the Georgian-Abkhaz and the Georgian-Ossetian conflicts - and its role as a party to the conflict, a peacekeeping force, and a mediator - cannot be dissociated from the larger geopolitical context.

¹ Prime News Agency, 7 October 2004

² Ibid.

South Ossetia

Late July and early August marked an escalation of the conflict between Tbilisi and South Ossetia and Abkhazia. As the problems with the two para-states exacerbated, tension also increased between Georgia and Russia. The attempt to export the rose revolution to Tskhinvali has failed. It is clear that consolidation of the Georgian state through "export of the rose revolution" is stumbling on serious obstacles. It is interesting that the USA, who strongly opposed to Russia's tough position in case of Adjara, tolerated Russia's even tougher position in South Ossetia.

Presently, Ossetia is the scene of regular exchanges of fire, and the media report on people being killed and wounded. Recently, Georgian Prime Minister Zurab Zhvania and South Ossetian leader Eduard Kokoiti signed an agreement on November 5 envisaging the demilitarization of the conflict zone before November 20, the securing of free movement of the population, the implementation of joint economic projects and an increase in the number of OSCE observers in the conflict zone. According to agreement, only peacekeeping forces, Russian, Georgian, and Ossetian troops, may be located in the conflict zone. While, Georgia seeks joint or international control of the Roki Tunnel (which links the breakaway region with the Russian Federation,) preferably by enlarging the OSCE Mission-monitored area to the border, the South Ossetian side blocked once again Tbilisi's demand for joint control of the Pass. Along with South Ossetian authorities Moscow also has bluntly rejected the idea. Russian Foreign Minister Sergei Lavrov recently stated³ that the four-party Joint Control Commission (JCC), set up to monitor the 1992 peace treaty and a Russian-led peacekeeping force in the area, was sufficient to help both sides reach a compromise. The JCC, designed by Moscow a decade ago to isolate Georgia, is overwhelmingly weighted against Tbilisi. JCC as an outmoded structure programmed for conflict freezing, not settlement.

Russian officials, assert that Moscow has a legitimate interest in South Ossetia. "One should not forget that most residents of South Ossetia are citizens of Russia, and we [the Russian government] should care about them," Russian Defense Minister Sergei Ivanov told journalists August 17⁴. It seems that in the present situation, time is on the side of Russia and leaders of the breakaway republics. Many in Tbilisi are wary that Moscow, which has been a strong supporter of South Ossetia in the past, will adopt a similar stance in the current conflict. Fully Understanding these, Georgian authorities are continuing to press for an internationalization of its dispute with South Ossetia, and advocating idea to hold an international conference on South Ossetia. Such a conference, if ever convened, would dilute Russian influence over the conflict-resolution process.

³ PEUCH Jean-Christophe, *Russia Weighs In As Fighting Worsens In South Ossetia*, RFE/RL, 2004

⁴ RIA-Novosti, 17 August 2004

Adjara

Political conditions in Adjara differ significantly from Abkhazia and South Ossetia. The region never sought independence based on national self-determination, and its people are ethnic Georgians, unlike the Ossetians and Abkhaz. Abashidze's departure left a power vacuum in Adjara. However, after the "Rose revolution" Adjara has been firmly re-integrated into Georgia's fold. In the wake of a landslide victory in Adjara's local elections, Georgia's central government further increased its control over the Autonomous Republic after the Parliament approved a controversial law over Adjara's powers in its first hearing on June 25. According to the law Georgian Parliament has the right to suspend legislative acts passed by the Adjarian Supreme Council. Moreover, According to the document, the President, who proposes candidacy for the Adjarian Prime Minister's position, can disband the Supreme Council – the local legislative body, as well as the entire cabinet. On the other hand, the Adjarian Prime Minister will be able to veto decisions made by the Supreme Council.

Opponents described the document, which reaffirms Adjara's autonomous status, as a legalization of the direct presidential rule over the region. Actually the proposed law significantly downgrades Adjara's autonomous rights, which of course does not serve as a good example for Abkhaz and Tskinali de facto authorities during the negotiating process. Commenting on Tbilisi's readiness to grant wide autonomy to South Ossetia, the separatist leader Kokoitli referred to Adjara's example, where as he said "there is no autonomy after the revolution"⁵. The European Commission for Democracy through Law (known as the Venice Commission), recommended that the Georgian government amend some of the provisions in the draft, mainly the ones related to the central government's increased authority over the region.

The strict limits imposed on Adjara's constitutional autonomy are unlikely to make compromise offers of the kind that won community support in Adjara. Though, President Saakashvili retains a high level of trust and confidence, the appointment of persons from Tbilisi to high-level positions in Batumi has caused some resentment among the local population. Some experts claimed that the Abashidze's regime supporters may eventually attempt to rehabilitate themselves by exploiting these growing feelings of grievance. Meanwhile, central government claims that the increased rights of the central authorities are dictated by the current political realities in Adjara. "This law will prevent Georgia from disintegration. So nobody will have a desire to reintroduce the regime which existed during Aslan Abashidze's governance," Interior Minister, Irakli Okruashvili said on June 25 to Caucasus Press⁶.

There are some demands from opposition forces to cancel Adjarian Autonomy, but these demands were condemned by new administration, who claimed that it would be "a negative sign" for Abkhazia and South Ossetia. However, imposing on Adjara "a nominal

⁵ BS Press, 12 November 2004

⁶ Caucasus Press, 25 June 2004

autonomy,” which is a direct presidential rule and in reality, is already even worse sign for both Abkhazia and South Ossetia.

Post-Civil War Public Security Problems

Over the years, Georgians grew resigned to the country's status as a borderline failed state. Citizens lost trust in state institutions with the erratic supply of essential services - such as electricity and water - further undermining confidence. Corruption became a way of life, causing widespread cynicism, eroding public confidence in government, and undermining the country's economic prospects. Corruption undermined economic growth, jeopardizes financial stability, and weakens the ability of the state to deliver basic services. Georgia's illicit economy included smuggling and trafficking in drugs, guns, fuel, prostitutes, and children. In addition to bribery and kick-backs, corrupt politicians used their influence to help businesses avoid taxation, skew market competition and influence regulations that favour certain firms with whom they have ties. Georgia ranked 5 places from the bottom out of 133 countries surveyed for corruption by Transparency International⁷.

Strong popular support has encouraged new Government to undertake a sweeping anti-corruption campaign, a challenging task when the country's "shadow economy" constitutes up to 80 percent of overall output. The economic situation remains bleak. The country's gross national product has contracted by 60 percent, while 60 percent of the population lives below the poverty line. The new Government has already sent a clear message to deeply entrenched mafia networks and to the general population that he is serious about fighting corruption. Georgian public expects more from the new government. Fed up with corrupt officials, with whom they interacted daily, from the corner policeman to the utility agent, they want government to downsize the bloated bureaucracy and tackle patronage by enforcing the meritocracy principle.

On the other hand, in order to restore public confidence, government takes steps to replenish the national treasury by collecting taxes and enforcing customs. However as local and international experts observed indigenous economic activity and foreign direct investment will remain stagnant until the new government improves the regulatory environment and streamlines licensing procedures, which have been a cash cow for corrupt officials. Government has succeeded in slashing the state bureaucracy by 35%, raising pensions and nearly doubling the nation's tax and customs revenues. Recently, Government managed even to increase wages of MoD staff up to 300%.

Though Georgia has met with some success in undertaking reforms Saakahvilli's anticorruption campaign is off to a rousing start, a transparent process is essential to avoid the perception of political or personal motivation.

⁷ Transparency International, *The 2002 Corruption Perceptions Index*, Berlin: Transparency International, 28 August 2002, available at: www.transparency.org.

Brief Description of the Main Public Security Issues

The main domestic challenges facing the Georgian government are sustaining the current pace of reforms and turning promises into reality. Everybody understands that this is a hard job because the country's institutions have been "hollowed out" over the years. Georgia proclaimed its will to reform the law enforcement agencies according to the International standards. With all the security threats and long-term policy plans as they are, support towards the local Law enforcement bodies infrastructure and development has been amazingly high. Though, problems of financing are said to be the main obstacle for the reforms. Notwithstanding the commitment of government to pursue reforms in this field we should believe that uncoordinated and unplanned activity of the governmental structures in this direction is the root of the problem. The well organized, clear and coherent policy is still lacking especially in terms of Police reforms.

The Georgian Government which swept to power under the banner of democracy - faces challenges to its human rights record. Reports of police brutality continued. Several reports from local NGO blamed on physical abuse, torture, force confessions, and fabricate or plant evidence or inhuman and life-threatening prison conditions. The Government continued efforts to improve its uneven human rights record. Local Law enforcement bodies especially Ministry of Interior has initiated criminal cases against several high ranking police officers charging them for unlawful actions against citizens but serious problems still remain. According to NGO-s and mass media at the lowest level Security forces continued to torture, beat, and otherwise abuse detainees. There were lengthy delays in trials and prolonged pre-trial detention remained a problem. A case of former chairman of the Chamber of Control of Georgia, Sul Khan Molashvili that has been passed to the European Court on Human Rights is a vivid example of such cases. Molashvili claims that he was tortured in prison back in July, saying that the authorities "wanted to withdraw confession from him"⁸. Law enforcement agencies and other government bodies occasionally interfered with citizens' right to privacy. Government influenced and incompetent judges seldom displayed independence from the executive branch, leading to trials that were neither fair nor expeditious.

Georgia's civic sector and opposition groups doubt that the partisan background of the new law-enforcement leaders will allow them to stay unbiased and independent during sensitive cases. For example, human rights NGOs have protested a recent decree by Justice Minister Giorgi Papuashvili that prohibits NGOs from monitoring the penal system.⁹. At the same time some pro-governmental NGOs (Liberty Institute) blaming authorities for deals with corrupted functionary. The bases for the allegation are the draft bill on 'Property Legalization and Non-declared Fiscal Duties' prepared by the government. Opponents of the bill believe that the draft law should not provide amnesty for high rank officials, including former governmental officials of

⁸ "Akhali versia", 29 October 2004

⁹ Inter Press, 25 June 2004

Shevardnadze's regime. They describe the draft bill as not of amnesty but of amnesia.

Already facing heavy criticism for its treatment of Human Rights concerns and respect for political plurality, (Georgia is at the forefront of media freedom by passing some of the world's most liberal laws on defamation in July this year that decriminalized libel and slander, meaning that journalists no longer have to fear jail in case they are accused) the Georgian government receives serious criticism for its record on access to information and press freedom. While Georgia's legal status won praise, media analysts express serious concern over how the laws are enforced and how the government respects media freedom in practice.

Assessment of National Agencies Tasked with Public Security Management

The Ministry of Internal Affairs (MIA) and the General Prosecutor's office have primary responsibility for law enforcement, and the Ministry of State Security (MSS) still plays a significant role in internal security. Structural reforms and staff reshuffling have been initiated in the Ministries of the Interior, Ministry of Defense, General Prosecutor's office, Ministry of State Security. Some of them were abolished or transferred to other governmental structures. The Border Guard department is undergoing painful transformation under the MIA aimed at the creation of a Border Police.

Ministry of Internal Affairs

The Ministry of the Interior faces daunting problems, the lack of educated and professional cadre in all walks of governance perhaps being the worst. It has taken some drastic steps to shake up some of the most stagnant and corrupt institutions – such as the transport and the traffic police. Half the nation's police force - nearly 15,000 officers - was fired earlier this year. Those remaining got American-style police uniforms, new Volkswagen Passats and salaries high enough to help resist the urge to collect on-the-spot traffic fines. However, the majority of the MIA staff still has not overcome the so-called “Homo Sovietikus” mentality, lacking initiative and efficiency. There is no coordination between the different branches of the ministry. The use of analytical or research material regarding the different law enforcement issues is very low. The weak cooperation with the NGO sector probably also undermines an active involvement of the civil society in the reform process.

Merger of Internal Troops with the Defense Ministry

The reform of the Ministry of the Interior foresees its transformation into a fully civilian organization. The Georgian Ministry's of the Interior combat units – the Interior Troops - were part of the Soviet system and were one of the most instrumental forces of police repression. Heir to their Soviet analogue, the Georgian Interior Troops up to now have been subordinated to the Ministry of the Interior. The Internal Troops

officially became part of the Defense Ministry's forces starting from 1 November, as part of the reforms within the country's Armed Forces. The Ministries agreed that the move is a part of the reform of the Georgian Ministry of the Interior and the Defense Ministry's armed forces. The Georgian Minister of the Interior, Irakli Okruashvili, said "only a small group of special forces" will remain under the Ministry's of the Interior subordination, which will be in charge of "maintaining order in the country",¹⁰.

This was also one of the western partners' recommendations, as it will help Georgia to get closer to NATO standards. Initially, Saakashvili's administration pondered transforming the Interior Troops into the analogue of the Turkish Gendarmes. However, it became clear today that the Interior Troops would be passed under the command of the General Staff of the Georgian Armed Forces.

This move will undoubtedly help improve coordination and effectiveness of the Georgian Armed Forces. However, it might complicate the relationship with UNOMIG, since parts of the Interior Troops were stationed inside the UN-defined security zone. The decision on the incorporation of these troops under MoD aegis contradicts the spirit of the Moscow agreement on ceasefire signed in 1994 between the Georgian and Abkhaz sides. Given that the Georgian government cannot leave the area, which is just next to the ceasefire line, without any security reinforcement, this decision might violate international agreements if no consensus can be found.

Ministry of Defense

Georgian public security sector stands on an irreversible path of democratic development. The transition process of the Ministry of Defense and the Armed Forces from the old Soviet model to modern forces conforming to international standards is progressing, which takes a major effort. The main obstacle to the reforms and development of the Georgian Armed Forces is the lack of funding. Georgia has the lowest defence budget among IPAP countries. The Defense Ministry has repeatedly been requesting support of the government and the society. At first sight, it seems that everybody fully acknowledges that the defence sector should be the highest priority for the country; however, at present it still lacks proper support. One of the main principles the Ministry of Defense derived is that the Armed Forces need to be smaller, mobile, flexible, well-equipped and well-trained. In conditions of financial problems foreign assistance remains vital for the Georgian Armed Forces.

In spite of the present difficulties, the MoD shows its intention to follow through with the reforms. The MoD already announced plans to reduce the size of the Army to 14,648. The current Army is over 17,000 strong. Optimization of staff will begin with the Minister's civilian office and will extend through the General Staff to other ministry structures. The reduction of staff includes cutting the number of generals

¹⁰ Georgian TV "Mze", 15 September 2004

from twenty-four to six. The reduction of the number of staff will enable an increase in salary, with the minimum salary increasing from GEL 20 to 115 and maximum from 170 to 520. Funding of food provision also rises, from GEL 60 to 102 per soldier per month. Optimizing the ministry is increasing the combat potential of the Georgian Army as well.

Integration into NATO is one of the major priorities of Georgia's foreign policy. Through the realization of the Partnership for Peace Program, active cooperation within the Euro-Atlantic Partnership Council (EAPC), participation in the Partnership for Peace Planning and Review Process (PARP) and accomplishment of compatibility objectives, Georgia has proved its unwavering commitment towards this goal. On 29 October, the North Atlantic Council approved Georgia's Individual Partnership Action Plan (IPAP). After this decision Georgian-NATO relations entered a wider and qualitatively new stage, which is undeniably a great step forward en route to integration into NATO. Upon successful implementation of the Individual Partnership Action Plan, which establishes specific defence reform goals for Georgia to be implemented with the help of NATO, Georgia may accede to the Membership Action Plan (MAP).

The Georgian MoD has also taken an important step towards NATO membership by active involvement in peace operations around the world. Presently, Georgian peace-keepers are stationed in Kosovo, Iraq, and Afghanistan. The Georgian Parliament recently adopted a draft elaborated by the MoD, which modifies the Army's recruitment system. The MoD leadership believes that the law should become the basis for establishing professional Armed Forces. Given that most of the reforms require capital investment and qualified personnel, as well as existence of a well-drafted and coordinated policy, experts claim that the vestiges of the Soviet military system and corruption are a chief deterrent of the defence system reform.

The local experts also believe that the overlap and the lack of coordination between Georgia's military and security agencies (Internal Troops and Ministry of the Interior, Border Defense Department, Ministry of State Security) is also problematic. Basically the whole system needs a conceptual modification, but this would require closer attention of the government and society.

Public Security Management and Local Responses to State Public Security Strategies

The reformist, elected, civilian authorities still maintain inadequate control over the law enforcement and security forces. In particular, representatives of the MIA and the Prosecutor's office are blamed for committing serious human rights abuses. Senior government officials openly acknowledged serious human rights problems, especially those linked to law enforcement agencies, and sought international advice and assistance on needed reforms. However, while structural reforms designed to improve the respect for human rights continued to be implemented, there was no change in the practices of the law enforcement agencies.

The Georgian Parliament has instituted wide-ranging political reforms supportive of higher human rights standards, including religious freedoms enshrined in the constitution. However, the Parliament fails to make any decisions independently, without instructions from the executive authorities, despite its key function to act as a check on the executive body. The same can be said of the judicial system. Problems also persist, largely as a result of the unwillingness of law enforcement and criminal justice officials to support constitutionally mandated rights. As local media reports, intolerance against political opponents and mistreatment of pre-trial detainees are significant and continuing problems, as is corruption.

Critics of the present administration also claim that authorities are applying the law selectively in the on-going anti-corruption drive, arresting and punishing political enemies while leaving supporters untouched. Those taken into custody have been subjected to police abuse, as human rights advocates say. Human rights watchdogs from the governmental and non-governmental sector declared that there is a catastrophic number of cases of human rights violations under the new government. According to official data that the Ministry of Justice has given to the governmental Ombudsman (the country's public defender), 533 detainees have written complaints of violations in the first nine months of 2004, significantly more than in previous years. Unfortunately, the current law does not allow the Ombudsman's Office to organize any investigative activities and limits its powers to informing other governmental bodies about alleged violations. Watchdogs also blame the Georgian media for not publicizing and covering these issues, something that would make the authorities more intent on preventing violations. Ghia Nodia, the chairman of the Caucasus Institute for Peace, Democracy and Development, in a lengthy analysis article published in the Georgian newspaper "24 Hours", asserted that Saakashvili's administration has become accustomed to operating in an "emergency situation," in which authorities rationalize the need to "set aside the necessity of observing laws». Those in power tend to believe that the rule of law will be easy to establish after conditions have stabilized, Nodia noted¹¹.

The preliminary conclusion that many in Georgian society draw about the new administration's performance is that the state is governed rather by the law of the ruler than by the rule of law. A lack of transparency in the government's operations is, likewise, prompting people to believe that instead of cleaning up corruption, the government is merely redistributing the loot. This mood could prove tragic for Georgia, for it distracts from what is still a tremendous opportunity for the country to achieve its stabilization goals.

¹¹ 24 Hours, 18 October 2004

Regional and International Actors Present in the Country

CIS PKF

Russian peace-keepers, under the authority of the Commonwealth of Independent States (CIS PKF), are still deployed in Abkhazia, along with UN observers (UNOMIG). Tensions still persist between Russia and Georgia regarding the role of the CIS PKF. The Georgian side is proposing a change in their mandate, which the Abkhaz side refuses. It should be mentioned that the Georgian Parliament asked, last autumn, for an immediate withdrawal of these forces. Nevertheless, UNOMIG says that as its own observers are unarmed, the joint patrol with the CIS PKF is a necessary condition for the UNOMIG's observers to function as long as it is not replaced by other international forces. Meanwhile, Georgia agreed to an extension of the CIS PKF mandate, which allowed the UN Security Council to extend the UNOMIG mandate accordingly. The CIS PKF force performs its cease-fire duties but carefully avoids taking any action on the refugee problem. Despite the presence of peace-keepers, there has been only very limited repatriation of ethnic Georgian IDPs, apart from some spontaneous returns to the Gali region of Abkhazia, where the security situation remains unstable.

A Russian peacekeeping force has been in South Ossetia since June 1992. Repatriation to South Ossetia has also been slow. Until now they maintained close contacts with the OSCE Mission in Georgia and enjoyed close cooperation. Recently, the Commander of the Joint Peacekeeping Forces (JPKF) in South Ossetia, Russian Major-General Marat Kulakhmetov spoke out against an increased role for the OSCE in the conflict area. In an interview with the Russian news agency Regnum, Kulakhmetov stated that he understands "that the OSCE mission would like to be more involved in this process". However, he is "categorically against substituting the peacekeeping mission with the Mission of the OSCE". According to him, "these trends exist and they become more and more apparent"¹².

Generally, the role of the CIS PKF is rather controversial, since de facto it does not fulfil a classical peacekeeping mission but rather acquired "border guard" functions between the conflicting sides. Moreover, the presence of the CIS PKF helps maintaining a status quo favourable to Moscow. In the meantime, the Russian government claims to be searching for a new relationship with its smaller neighbours and argues that the overwhelming role of Russia in the CIS and in the peacekeeping force is only a temporary reflection of the current capabilities of the CIS members. On the other hand, many Georgian experts believe that the CIS PKF as a Russian-dominated political and military tool has already exhausted its recourses and alternative peacekeeping forces needed to facilitate the peace process in Georgia. Unfortunately, for different reasons it is difficult to persuade the international community to do this, even though everybody understands

¹² Civil Georgia, 11 November 2004

that Russia as an interested party can never play the role of a fair dealer in conflict resolution in the Caucasus.

UNOMIG

UN involvement in the attempts at resolution and management of the Georgian-Abkhaz conflict is multifaceted and complex. Years of negotiations have not resulted in a movement toward a settlement. Working with France, the United Kingdom, the U.S., Germany, and Russia and through the Organization for Security and Cooperation in Europe (OSCE), the United Nations continues to encourage a comprehensive settlement consistent with Georgian independence, sovereignty, and territorial integrity. In addition to the principle of territorial integrity, UN activity with regard to Abkhazia is based on supporting the rapid, safe and voluntary return of refugees and IDPs to Abkhazia, especially the Gali district.

For the time being, discussions on the political settlement seem to be in a deadlock. They take place in a so-called “UN-led Geneva peace process”. Long ago, the UN offered a proposal on the distribution of competences between Abkhazia and the central authorities. The latter hope that this document will provide a basis for the settlement, but the Abkhaz side does not seem to abandon its position of principle that the reunification is only possible if Georgia and Abkhazia are treated as equal entities. This creates an uncomfortable situation for international organizations and their member states, including UNOMIG. Lately, before the so-called “Presidential elections”, the Abkhaz side has renewed its insistence on independence, while the international community has not recognized such attempt. For the time being separatist authorities suspended their participation in the peace process, accusing Georgian authorities of infringement of Abkhaz territorial waters. This situation temporarily diminishes the role of UNOMIG; however, there is hope that after the political turmoil is over in Abkhazia the situation could be changed. Generally, UNOMIG continues to contribute to the implementation of the cease-fire agreement and to play a constructive role in the overall peace process, thus encouraging grassroots-cooperative and confidence-building measures in the region.

OSCE

The OSCE mission to Georgia is active in all dimensions within Georgia and with its main area of interest in South Ossetia where the main purpose is to facilitate the political settlement, to eliminate the sources of tension and to promote political reconciliation. The OSCE mission in Georgia supports the UN in the Abkhazia conflict. However, in regard to the Mission’s activity in the Abkhazia conflict less progress can be reported. Presently the Mission is tasked with monitoring movements across the Georgian-Russian border in the area of the Chechen Republic and Ingushetia. The successful operation contributed to decreasing the tensions and thus to the stabilization of the overall situation in the

region. However, the mandate of the mission comes up for renewal at the end of this year and Russia is attempting to close it.

A special session of the OSCE's Permanent Council in Vienna on 29 July failed to act on Georgia's proposal to widen the role of the OSCE Mission in South Ossetia. Russia's delegation turned down Georgia's proposals on grounds that the OSCE Mission's mandate precludes enlargement of its area of responsibility and that the Mission's personnel is already "fully sufficient". Instead, it called for the OSCE to focus on facilitating a settlement of the conflict¹³. At the same time Russian military officials regularly hint at the need to launch strikes against Chechen militants in the Pankisi valley of Georgia. Moreover, while blocking some OSCE funding unless its concerns are addressed, Russia for almost a year, has refused to reaffirm commitments made to the OSCE in 1999 to withdraw troops from Georgia.

Although the OSCE has succeeded in establishing and maintaining an ongoing dialogue between each of the secessionists' authorities and the central authorities, all its efforts aimed at achieving a mutually acceptable political compromise have, so far, proved less fruitful. However, the absence of the OSCE from the region could give Moscow a freer hand thus leaving Georgia in a challenging situation. While Moscow has formally recognized the territorial integrity of Georgia, its policy aims are containing violence below escalation level but also maintaining enough tensions to justify Russia's mediation efforts and politico-military presence in Georgia.

EU

The recent political reforms in Georgia, coupled with the declaration of the new government that relations with the EU constitute a major priority of Georgian foreign policy, have made Georgia's stability a crucial issue in the EU's external relations. This change in the EU's approach towards Georgia and the Southern Caucasus in general, is clearly reflected in the recent (17/18 June 04) European Council's decision to include the three countries of the Southern Caucasus into the "European Neighbourhood Policy". In addition, the European Union and the World Bank organized recently (Brussels, 16 June 04) a Donors' Conference for Georgia, which was highly successful since the total pledges amounted to €855million. This economic assistance is designed to support the Georgian government's strategy for improving governance/rule of law and fighting corruption as well as tackling the serious problems of poverty in Georgia.

In accordance with the European Security Strategy and in the context of the European Security and Defense Policy (ESDP), an EU Rule of Law mission to Georgia (EUJUST Themis) was launched on 16 July 2004. The aim of the mission is, in cooperation with the OSCE and the Council of Europe, to promote judicial and criminal justice reform, as well as combating corruption. Moreover, it is designed to support the Georgian authorities in addressing urgent challenges in the criminal

¹³ Interfax. 29 July 2004

justice system, and to assist the Georgian government in developing a coordinated overall approach to the reform process. It thereby fully complements current EU assistance and other international community activities and bilateral Member State initiatives in the area of the rule of law.

It should be pointed out that the mission is not only the first EU mission of its kind, but it also marks the first application of the bloc's defence and security policy outside of the Balkans or Africa. While it remains concerned about the possibility of conflict in the troubled breakaway regions, the EU is preparing concrete aid measures to help relieve tensions between Georgia and South Ossetia and Abkhazia. In South Ossetia, a new railway link with central Georgia is planned, as well as support for refugees. As for Abkhazia, plans for a construction program are under way to span an area cutting the region off from the Georgian mainland.

The EU is playing an active role in the stabilization of the country; however, Georgian society expects more support especially in political and security issues. There is an impression that EU deliberately gets behind of the U.S. in these issues, avoiding complication of its relationship with Russia. On the other hand, The Georgian general public believes that worsened Russian-Georgian relations over a set of issues should become of concern for the evolution of the EU-Russia relations. Due to the specific affiliation between the EU and Russia it is widely accepted that in some cases the EU can play a greater role than other international organizations involved in Georgia. In the South Caucasus, Georgia now appears best placed to make use of EU goodwill, especially in conflict resolution and facilitation of the Russo-Georgian political dialogue.

Conclusion

The new Georgian leadership faces a sizeable challenge: it is going to take a skilled mediator to maintain the necessary balancing act between the conflicting interests that have emerged over Georgia. Whether the new administration will be able to follow remains to be seen. The population sees that the authority that came to power after the revolution is doing all it can so as not to disappoint their hopes. The absolute majority of the Georgian people understood well that it was impossible to build a country in just one year. Corruption has indeed become less visible at the highest levels of Georgia's government, but this does not mean that the battle has been won.

On the other hand, there is a considerable potential for greater political and economic instability in Georgia which outside actors may seek to exploit. The antagonistic relationship between Moscow and Tbilisi is likely to persist in the foreseeable future, particularly with a continued US presence in the country further exacerbating existing fault lines and tensions in an already unstable area.

Undoubtedly the new government in Tbilisi must continue to move towards a conflict settlement. The recent development in Abkhazia indicated that Russo-Abkhaz relationships have undergone

very significant transformation. It is clear that internal stability in Abkhazia no longer meets Russian interests. It is also quite obvious that the Abkhaz people do not want to be, but in reality are not unconditional puppets of Moscow. All these circumstances might provide a window of opportunity for Tbilisi. However, Russia's helpful and positive support still is a prerequisite for solving this longstanding problem.

The peacekeeping and public security efforts taken by the Georgian government and the international organizations (UN, OSCE, EU) on the respective conflict area must be pursued further:

International organizations (especially the EU) must intensify their involvement in Georgia and work actively in order to give new impetus to the peace and stabilization processes in the country, thus minimizing Russia's detrimental geopolitical influence; persuade Russia to refrain from any unilateral measures affecting Georgia and its citizens, in particular as regards Abkhazia and South Ossetia, without prior consent of the international community.

The Georgian government and the international organizations involved (UN, OSCE, EU, etc), including the Russian Federation, should convene an international forum and revise the current peacekeeping mandates for Abkhazia and South Ossetia in order to obtain more efficient and more tangible results on conflict resolution.

The international community (including Russia) should influence the Abkhaz and South Ossetian leaders to abandon their harsh positions and accept to engage in serious negotiations regarding the status of Abkhazia and South Ossetia within Georgia;

Special assistance is needed to remove foreign military bases in Georgia as soon as possible in accordance with the international agreement reached with Georgia: the government solved the conflict with Adjara relatively easily. But Abkhazia and South Ossetia will be more difficult, will take a long time, and will require Russian cooperation. Nonetheless, resolving both conflicts is essential for Georgia's sovereignty and territorial integrity;

EU's and other international actors' principle position regarding Russia will foster the implementation of the agreements achieved by the conflicting sides, including the one regarding demilitarization of the South Ossetian conflict zone signed on 5 November in Sochi by the Russian side as well.

The EU should intensify its assistance programs to Georgia with a view to strengthening democratic reforms in the field of law enforcement; including the provision of technical assistance for anti-corruption measures and the development of legal institutions and law enforcement; to launch small-scale staff training projects aiming at ensuring proper qualification of middle level staff involved in reforms.

Adequate resources should be provided to the Ministry of Internal Affairs and other law enforcement agencies to encourage ongoing reforms: to ensure transparency, funding should be appropriated directly by the Parliament and not the Ministry of Finance. Persons of the highest ability should be appointed independently of political considerations to spearhead the anticorruption campaign.

Special attention should be attached to ongoing reforms in the Police Academy of Georgia, thus facilitating long-term training programs for staff involved in reforms. The failure of this reform would mean a breakdown of the democracy-building process in the public security sector all over the country.

Through international human rights watchdogs, the EU and other international organizations should be actively engaged in Georgia to avoid deterioration of the human rights records of the country. They should facilitate the removal of all suspicions of the civil society over their serious concern about the way the laws are enforced and the government respects media freedom in practice.

Chapter 5

Regional and International Organisations in Georgia

Heidemaria Gürer¹

In order to analyse the history, meaning and purpose of political mediation by International Organisations and Country Representatives in the Republic of Georgia, it is necessary to give a short historic overview of the different territorial conflict situations in the Southern Caucasus, with a special emphasis on Georgia.

The territorial division of the Southern Caucasus can be described as the most complex one of the former Soviet Union with the exclusion of Russia herself and certain enclave regulations in Central Asia. Within Georgia one can find:

- the Autonomous Republic of Abkhazia
- the Autonomous Republic of Adjara
- the Autonomous Region of South Ossetia

In a region further split into

- the Autonomous Republic of Nakhichevan, belonging to Azerbaijan, but territorially separated from it, bordering immediately on Armenia and
- the Autonomous Region of Nagorny Karabakh, belonging to Azerbaijan, but predominantly populated by Armenians, separated from Armenia sometimes only by 10 kilometres.

The Soviet territorial division for the Southern Caucasus resulted in three Union Republics (Armenia, Azerbaijan, Georgia – today independent States), three Autonomous Republics (Adjara, Abkhazia, Nakhichevan) and two Autonomous Regions (Nagorny Karabakh, South-Ossetia). A short description of the three entities within Georgia will give us the following picture:

Abkhazia

Situated in the north western part of Georgia, bordering the Black Sea and Russia, 8.600 km² (roughly 1/10 of Georgia's territory), population of about 230.000, but 525.000 before the conflict. The composition of

¹ This article is the personal opinion of the author – an Austrian diplomat - and does not reflect the official position of her home country.

the population as of today is approximately 40 per cent Abkhaz, 22 per cent Russians, 15 per cent Armenians, 5 per cent Georgians. The respective figures before the conflict: 46 per cent Georgians, 18 per cent Abkhaz, 15 per cent Armenians, 14 per cent Russians. The Abkhaz themselves are partly Sunni Moslems, their language belongs to the Caucasian group, but is different from Georgian, as it belongs to a different branch (north western group, closer to e.g. Chechen), and use the Cyrillic alphabet since 1945.

Adjara

Situated in the south western part of Georgia, bordering the Black Sea and Turkey and the predominantly Armenian populated Akhaltsike region in Georgia; 3.000 km² (roughly 1/25 of Georgia), population of about 371.000. The population is mostly composed of Sunni Moslem Georgians, the reason for having introduced autonomy thus being predominantly a religious one.

South Ossetia

Situated in northern Georgia, bordering the Russian Federation/North Ossetia (Alania); 3.900 km² (roughly 1/20 of Georgia), population of about 85.000 (99.500 before the conflict), the composition of the population is approximately 66 per cent Ossetians, 29 per cent Georgians, 2 per cent Russians, 1 per cent Armenians. The Ossetians are one of the few Iranian peoples in the Caucasus using the Cyrillic alphabet for their Iranian language, and are predominantly Orthodox. It has however also to be mentioned that out of a population of 632.000 in North Ossetia/Alania 55 per cent are Ossetians as well. In the Abkhaz as well as South Ossetian case it has to be pointed out that a rather high percentage of the respective populations have recently obtained Russian citizenship.

In order to describe the individual conflicts (in alphabetical order) and the different solution mechanisms undertaken by international organizations and the role some countries or group of countries played, we can start with Abkhazia and introduce also some glimpses of Abkhaz history which might contribute to a better understanding of at least some features of the ongoing conflict.

Abkhazia

Abkhazia, Christianised in the 6th century, became an independent kingdom in the 9th century and joined Georgia in 978. From the 15th century onwards it was part of the Ottoman Empire, the population became Muslim. In 1810 it became a Russian protectorate, 1864 part of Tsarist Russia, when many people left for the Ottoman Empire. Still today one can find an important percentage of Abkhaz descendants in Turkey. In 1917 Abkhazia joined the Union of the Peoples of the Northern Caucasus; in 1921 the Red Army conquered Abkhazia at the same time as the other parts of the Southern Caucasus. At the beginning

Abkhazia had the status of an own Soviet Republic with an own constitution (1925), being as member of the Caucasian Federation also founding member of the Soviet Union. In 1930 Stalin changed her status to the one of an Autonomous Republic within Georgia – a step that many interpreted as a present of the Georgian Stalin to his homeland.

During the more liberal times nearing the end of the Soviet Union under Gorbachev, Abkhazia tried several times already in 1987 and 1988 to secede from Georgia. In August 1990 the Abkhaz Parliament, taking advantage of a moment where the Georgian deputies to the Parliament were not in Abkhazia, declared Abkhazia's independence from Georgia, thus contributing to the aggravation of the already tense situation in Abkhazia. In fall 1991 parliamentary elections on the basis of a system disadvantaging the majority Georgian population took place. After the fall of the Georgian president Gamsakhurdia pro-Gamsakhurdia and anti-Gamsakhurdia factions formed themselves within Abkhazia thus aggravating the already existing Georgian-Abkhaz antagonism.

In July 1992 the Abkhaz Parliament (though with a small majority) reinstated the Abkhaz constitution from 1925 which practically meant secession from Georgia – a fact that was of course not accepted by the Georgian central authorities which decided – after some additional provocations – to send military troops to Abkhazia, which were defeated after heavy fighting in summer 1992 and which led to an exodus of the Georgian population from Abkhazia. It has been widely acknowledged that the victorious Abkhaz troops had been supported by Russian forces.

The first cease-fire was signed in Moscow in September 3 that year. Partner to this cease-fire was not only Russia, but also the – termed illegal by Russia - Confederation of the Caucasian Mountain Peoples (a confederation of about 15 predominantly Moslem mountain peoples in the six Autonomous North Caucasian Republics of Russia, with late Chechen President Dudaev as driving force behind), who also sent mercenaries to Abkhazia to support her in the fight against Georgia. The above mentioned cease-fire as many others in the future was never really respected up to the cease-fire and troops disengagement agreement of May 14, 1994 signed again in Moscow, but under UN chairmanship.

In September 1992 the first mission of the United Nations General Secretary was dispatched to Georgia/Abkhazia, followed by the deployment of the first ever United Nations Peace Keeping Forces on the territory of the former Soviet Union, UNOMIG (United Nations Observer Mission in Georgia. The essential mandate of UNOMIG (180 personnel) is:

- Monitoring of the cease-fire and troop disengagement agreement
- Maintaining relations with the CIS PKF and monitoring of them
- Controlling of the troop withdrawal from the security zone
- Maintaining relations with the conflicting Parties
- Patrols in the Kodori Valley (located in Abkhazia but under Georgian control).

In November 1992 an OSCE long-term Mission started also its operation in Tbilisi. After some time it developed in such a way, that the UN Mission was exclusively tasked with the Abkhaz problem, the OSCE mission, apart from its general Georgian mandate, tasked with conflict solution in South Ossetia.

Since 1993 Georgian-Abkhaz negotiations take place in Geneva (or other places) under UN-umbrella and with Russia as facilitator, the main themes today being economic cooperation, return of IDPs and refugees, political and security matters. The Special Representatives of the UN General Secretary have so far been very often Suisse nationals, with exception of a Rumanian diplomat and the German Boden who was instrumental in elaborating the so called “Boden-paper” – basis for today’s negotiations on the sharing of competences between the Georgian central authorities and the Abkhaz leadership.

Within the United Nations the group of “Friends of the Secretary General of the United Nations” (formerly the “Friends of Georgia”), comprising France, Germany, Great Britain, Russia and the US was established to promote a peaceful conflict solution. On the NGO level Georgian-Abkhaz discussions take place since 1996 on a more or less regular schedule in Germany or Austria (Peace University Stadtschlaining). After the 1994 cease-fire the CIS, predominantly Russia, also deployed a PKF (2.500 personnel) to Abkhazia that cooperate in certain aspects with the UN PKF. In 1996 the UN (High Commissioner for Human Rights) together with the OSCE established a Human Rights Office in Abkhazia/Sukhumi. The long sought for OSCE office in the Gali region could so far not start operation due to security reasons.

Since then Abkhazia declared an independent State with its own state structures and the Abkhaz Parliament declared its willingness to join the Russian Federation – a desire that could not be realized until today. On the other hand side Russia granted a high percentage of the Abkhaz population Russian citizenship and visa-free travel to Russia, whereas Georgian citizens have to obtain visas for their visits to Russia.

As of today the most pertinent questions continue to be:

- The Status of Abkhazia: Georgia is not willing to compromise on her territorial integrity. Abkhazia insists on her independence or integration with Russia
- The Return of IDPs: Georgia insists on the return of all the IDPs, which will automatically lead to a new lack of balance in the composition of the population disadvantaging the ethnic Abkhaz. Abkhaz offers to let the IDPs return were so far not accepted by Georgia due to security reasons

So far we have dealt with the highlights of the historic developments of Abkhazia and its conflict with Georgia, putting a certain emphasis on the international players (UN, OSCE) as well as the traditionally involved States, mainly Russia. Now we can consider analysing recent events concerning Abkhazia, starting in 1993 and try to scrutinize also the role

of other State players or international organisations that could eventually be seen as having to play a role in the region or the conflict solution.

Let us start with the CIS and its individual members. Georgia, as is well known, did not join the CIS after the collapse of the Soviet Union, but was more or less forced to do so in 1993 in connection with the Abkhaz crisis, hoping that an eventual CIS membership would lead to a solution of the Abkhaz crisis respecting also Georgian interests. The assumption that Russia was actually supporting Abkhazia in this conflict and had no interest to solve it in order to be able to continuously exert influence on Georgian developments could not be diffused even after Georgia's CIS membership. Georgia requested on several occasions that the CIS-Russian PKF in Abkhazia should be changed in its composition, but no real adequate changes could be achieved.

Georgia was trying to involve e.g. Ukraine more in Abkhazia, especially after the formation of GUUAM – originally a cooperation of CIS members having all (territorial) conflicts with Russia (Georgia – Abkhazia, South Ossetia; Ukraine – Crimea, Azerbaijan – Nagornyi Karabakh, Moldova – Trans-Dniestr). As relations with Russia some times soured under president Shevardnadze, Georgia tried also to involve outer regional powers or to enhance relations with them, foremost with the USA, hoping that the US or eventually NATO – as in other parts of the world - will get involved in support of Georgian aims. Towards the end of Shevardnadze's reign however also relations with the US complicated and the US as well as NATO made it clear that no military involvement from their side would be expected.

So the Russian card was played again more vigorously than in the past. In the Abkhaz context the Sochi meeting of summer 2003 between Shevardnadze, Putin and the Abkhaz "Prime Minister" Gagulia can be considered to be the most important event. In Sochi - at least on paper – was agreed:

- step by step return of IDPs
- Restart of a train connection from Russia to Georgia
- Rehabilitation of hydro power plants on the Inguri river
- CIS/Russian PKF not to be extended every six months, but to be stationed on a continuous basis until one of the parties asks for changes

The international community was surprised by the outcome of the Sochi meetings, as they seemed to imply a second conflict resolution track next to the so far only UN mechanism, either trying to replace the latter one (although Russia is also part of it) or to circumvent it, showing the international community the inefficiency of the UN work and at the same time to impress by bilateral, Russian sponsored solution ideas. After Sochi Shevardnadze praised Russia as being the main guarantor for the post conflict arrangements.

In the context of Georgian - Russian relations one should also tackle the question of Russian bases in Georgia – out of the original four two which should have been according to the OSCE Istanbul commitments vacated already (Vaziani and Gudauta in Abkhazia), the

later one was described by Russia as having fulfilled the obligations like Vaziani, which the Georgian side is contesting. Problems with the closure of the two remaining bases can be at least partially explained by the Russian fear that other countries (NATO) would follow Russia with stationing.

Although the new Georgian government tried to reassure Russia that no foreign country would be allowed to have military stationing in the country, Russia could so far not be convinced of the Georgian sincerity. If neutrality is an option, remains to be seen, the more so as the Saakashvili government is pursuing a very strong NATO membership policy. The overall Georgian-Russian framework agreement, started under Shevardnadze, has so far shown no signs of being completed, although fall 2004 is very often cited as a possible date.

In this context one may need to analyse the role of some subjects of the Russian Federation and their role in the Abkhaz context. As mentioned above it was mainly Chechnya under Dudaev that was rather supportive of the Abkhaz agenda (due to ethnic reasons, but also trying at the same time to use the Abkhaz-Georgian example for herself in the relationship between Chechnya and the Russian central government). In the course of events things changed in so far that Georgia as a whole was seen more and more by Russia as supporting the Chechen case against the Russian central government by allegedly helping Chechens in their warfare against the Russian central authorities – a fact that led in 2002 to a Russian ultimatum of “invasion” into Georgia if the Georgian side would not declare herself ready to cooperate with Russia in the fight against Chechen terrorism. Also here the new Georgian government is ready to follow a more pragmatic approach towards Russia hoping that this will be rewarded with a more reconciliatory Russian policy towards Georgian territorial conflicts.

The US role, though increasing in Georgia with its “Train and Equip Programme”, was at times also seen as decreasing as corruption in Georgia was increasing and the good relations with Russia - needed for Afghanistan and Iraq purposes – were not to be strained with too much attention to Georgia. The situation changed to a certain extent after the Georgian Rose Revolution – US military support increased, the Georgian topic was more present on the US-Russian agenda, but still no military involvement of the US or NATO can be expected to solve the Abkhaz crisis (an eventual Georgian NATO membership as reward for their Iraq engagement would come too late taking into account the speed of president Saakashvili’s actions and the expected results from his side).

As President Saakashvili designated the territorial integrity of Georgia as one of the cornerstones of his policies, he is more determined than ever to show progress in conflict solution questions. After the solution of the Adjara crisis (see below) he envisaged as a next step the solution of South Ossetia, recognizing albeit that the Abkhaz problem was harder to solve and that it would take more time, but nevertheless putting forward – for the first time since long – new Georgian proposals how the future of Georgian – Abkhaz relations could look like. The main features being thus:

- Agreement on peaceful solution
- Agreement on power sharing to be changed only by mutual consent, disputes to be solved by constitutional court
- Status of Abkhazia as Parliamentary Republic within Georgia, led by a “president” if population so wishes, to be elected without ethnic discrimination, has to be fluent in Abkhaz and Georgian
- Majority of Parliamentarians to be ethnic Abkhaz, quota for Georgian IDPs after their return, immigration of persons having not lived in Abkhazia before the war to be only 1 to 2 per cent of the Abkhaz population
- Proportionally more Abkhaz in Abkhaz executive
- A certain number of Abkhaz seats reserved in central government, being able to object against anything concerning Abkhazia
- The central Georgian government is to have the only competences in foreign policy, defence, border guards, customs and fight against organized crime
- No own army for Abkhazia, but Abkhaz conscripts for military service only in Abkhazia
- Own Abkhaz police
- Abkhaz inhabitants, that lived in Abkhazia before the war entitled to double citizenship
- Georgian and Abkhaz, but Abkhazia no subject of international law
- No more economic sanctions against Abkhazia, restoration of air and train connections
- Own Abkhaz taxes and budget
- Currency to be Georgian Lari with Abkhaz symbols and Abkhaz and Georgian inscriptions, to be recognized also in other parts of Georgia, own Abkhaz Central Bank

The above proposal was meant to see Abkhazia within Georgia but with more rights than before the war, a kind of federation with confederative elements, in other words, an asymmetric federation. In addition to these detailed suggestions from the Georgian side, president Saakashvili also changed the leadership of the “Abkhaz in Exile” (Georgian IDPs from Abkhazia, the leadership of which was since 1993 represented in the Georgian Parliament without ever having to undergo elections and which was lately very much criticized by the IDP community itself due to illegitimate behaviour and corruption).

So far the Abkhaz reaction was nevertheless not a positive one, asking for official distances from the then military Georgian implications and the disbanding of IDP guerrilla formations that every now and then made incursions into Abkhazia.

Having analysed the Russian/CIS and US factors as well as the OSCE and UN in the Abkhaz case it is nevertheless also interesting to see reaction of other players concerning Abkhazia and to scrutinize

changes in their attitudes towards the OSCE and the UN. When at the beginning Georgia was of course more than satisfied that the OSCE and the UN got involved in their different territorial problems thus making halt to a continuation of the conflict and insisting – according to international law and OSCE principles – on the territorial integrity of Georgia, a certain change in attitude has been perceptible. As the OSCE seemed to be more successful concerning South Ossetia, a stronger OSCE involvement was also sought for in Abkhazia.

The latest moves from the Saakashvili government show a certain determination by Georgia, also to be seen in other cases, to do things more on their own, if the international community seems to be too slow to respond adequately to Georgian views – relying also on the fact that Georgia is stronger (internally and externally) than it has been before the Rose Revolution. Whereas on the other hand, Abkhazia became more and more frustrated with the UN role as apparently the UN was seen as not taking Abkhaz considerations enough into consideration. Interruptions of Abkhaz participation in the Geneva process are direct expressions of these fears – which mean that both sides seem to be more and more reluctant in following the solution models prepared by international organisations.

Besides the international organisations one should also pay attention to some other countries/players concerning Abkhazia. Turkey e.g. is on the one hand side a very close ally of Georgia – also to be seen in her antagonism with Armenia – that also represented at the time the NATO interests in Georgia, expressed through strong military cooperation ties, but always had very good relations with Abkhazia (Moslem population) as well. The obvious circumvention by Turkey of the economic blockade of Abkhazia by Turkish ships bringing fuel, food, etc. to Abkhazia was known by Georgia and not intervened against – which testifies of the strong Turkish position in the region and especially Georgia (see below).

Possible other international players like Iran, Armenia, the Council of Europe, the Black Sea Economic Cooperation, etc. do not play a significant role in solving the Abkhaz conflict. Armenia however is due to its economic blockade and the high percentage of Armenians living in Abkhazia very interested in a solution of the conflict that would also enable her to take advantage of a re-established rail connection between Armenia and Russia going through Abkhazia.

In the framework of the “Group of Friends of the United Nations Secretary General”, Great Britain, which also recently appointed an “Ambassador at large” for Georgia/the Southern Caucasus with emphasis on the conflict solution seems to show the most interest in the situation. At times EU efforts to get more involved in the peace making process through e.g. EU participation in the conflict mechanisms, was regarded unfavourably by Great Britain, eventually fearing competition from the EU as an organisation.

As most of the overall aspects have already been dealt within the chapter on Abkhazia, only basic facts remain for the two other conflicts in Adjara and South Ossetia.

Adjara

In the framework of the conquest of southeast Georgia by the Ottomans, the Christian populations became Islamized. In the 19th century Tsarist Russia conquered the place to be partially reoccupied by Turkey in 1921 due to the Kars treaty. The part of this region that stayed with Georgia/the Soviet Union was transformed in 1922 into the Autonomous Republic of Adjara within the Union Republic of Georgia. The main parts of today's Adjara have been governed until recently for centuries by the Abashidze family.

The conflict between Adjara and the central Georgian government never took a military turn as in the case with Abkhazia or South-Ossetia, though the Autonomous Republic was governed more or less independently from Tbilisi. Expression of this independence was mainly the fact that no contributions from custom intakes at the Georgian/Adjar-Turkish border or the interior Georgian-Adjar border were channelled to the Georgian central budget. "President" Abashidze who ruled the Autonomous Republic as his own private, feudal fiefdom and who sometimes was seeing himself as an eventual successor to Shevardnadze was also a very close friend with Russia hosting one of the originally four Russian bases in Georgia and the Georgian/Adjar border being guarded by Russia. He never went to Tbilisi out of fear being murdered, though his political party, the Renaissance Party, was for quite some time the second strongest party in the Georgian Parliament. In the wake of the Rose Revolution it was Abashidze, as a turn of history, who supported Shevardnadze the most and who tried to act as a kind of mediator between Shevardnadze, Russia and other regional players.

But Abashidze could not survive the second Rose Revolution due to a hitherto very rare coinciding Georgian-Russian move that ended with the ouster of Abashidze who since then lives in Russia untouched by Georgia. So far it is unclear what the exact barter trade between Georgia and Russia has been in the Adjar case: longer stationing, neutrality, no foreign basis, closer cooperation in the fight against (Chechen) terrorism? The parliamentary elections in Adjara brought an overwhelming victory for Saakashvili and on June 25, 2004 a new statute for Adjara:

- Own flag and coat of arms, though smaller than the Georgian one
- Own constitution
- Georgian President has the right to dissolve the Adjar Supreme Council, to dismiss the governor of Adjara and to annul laws adopted by the Supreme Council of Adjara
- Own ministries for economy, finance, tourism, health, social affairs, education, culture, sport, agriculture, but not interior, state security, defence

As the Adjara conflict was the least violent, it was also the first to be solved by the new Georgian government. Beside the role of Russia, it is also noteworthy that the US and Turkey were involved as mediators as

was in this case the Council of Europe and the EU through her newly appointed Special Representative for the Southern Caucasus. The US, having been in one way or another instrumental in bringing about the Rose Revolution felt of course obliged also to contribute to a peaceful change.

The Autonomous Republic of Adjara was also a member of the Council of Europe Congress of Local and Regional authorities the council of Europe, having its own representative in Georgia, also tried to act as a mediator, calling for a peaceful solution of the crisis and the respect of human rights and democratic principles by all sides – an endeavour that was judged by President Saakashvili as being too one sided, not enough critical of the Adjarian side and led to lengthy and furious allegations against the Council of Europe Secretary General, Schwimmer.

The Council of Europe however continued its policy of highlighting short comings in the democratic development of any member of the Council of Europe and even after the elections in Adjara issued a statement describing the new autonomy of Adjara not as a real autonomy as too many things are still decided by Georgian central authorities.

In the Adjarian context Turkey has to be mentioned. Like Russia, an heir to the Soviet Union, so Turkey, an heir to the Ottoman Empire, has certain guarantee functions over Adjara contained in the Kars Treaty. Abashidze was also very successful in having the best of relations with the traditional rivals in the Southern Caucasus, Russia/Soviet Union and Turkey/Ottoman Empire. Turkey is also the only country that has a General Consulate in Batumi, the Adjar capital. Both, Russia as well as Turkey, were referring to their guarantee rights during the Adjar crisis without however to explain their details and having been obliged to use any of them.

As mentioned above, shortly before the Rose Revolution the EU appointed the Finnish diplomat Talvitie as its Special Representative for the Southern Caucasus. In this function he met Mr. Abashidze several times and acted as mediator from the EU side which, like the OSCE, appealed to both conflicting parties to look for a peaceful solution.

South Ossetia

The Ossetians are said to be descendents of the Iranian Scythians and settled in the 6th century in Ossetia then populated by the Turkic Khazars. Already then they controlled the only land connection between the southern and northern ranges of the Caucasus. In the 17th century many Ossetians were invited by the Georgian nobility to come to Georgia to develop agriculture. The Ossetians that henceforth lived in Georgia were Christianised; the ones staying on the northern side of the Caucasus became Islamized through the Karbadinians.

Towards the end of the 18th century North Ossetia has been conquered by Russia. The Georgian-Russian friendship treaty of 1783 foresaw the inclusion of South Ossetia into Georgia. In 1829 the “Georgian Military Road” from Vladikavkaz (the capital of North

Ossetia) to Tbilisi was built. In 1920 North Ossetia (together with Ingushetia) became an Autonomous Region of the Russian Soviet Socialist Republic, South Ossetia an Autonomous Region of Georgia. Moves for unification of both Ossetian parts have been denied during Soviet Union's time from Russian as well as Georgian side.

During the more liberal times nearing the end of the Soviet Union under Gorbachev, however South Ossetia declared her independence in November 1991. A referendum in January 1992 showed more than 90 per cent of the Ossetian population being for unification with Russia. This step led to military confrontation between South Ossetia and the Georgian central government, which abolished the status of autonomy for South Ossetia, naming it henceforth "Tskhinvali region". In the wake of this confrontation a common PKF composed of Russia, Georgia, North and South Ossetia has been established.

Since 1992 the OSCE mainly through its mission in Tbilisi and Tskhinvali (opened in 1997) is tasked to find a lasting conflict solution and to monitor the activities of the PKF. In 1994 so called "contact talks" between Georgia and South Ossetia started and a cease-fire agreement was signed that also implied the creation of a Joint Control Commission (including the OSCE and UNHCR). Sub groups of this Commission deal with questions relating to military, economic and IDPs problems. An overview of the complex conflict settlement machinery is attached – to which one had still to add the Sochi agreements.

It was always stated that the South Ossetian conflict seems to be much easier solved than the Abkhaz case. It might seem logical, but one always has to ask if South Ossetia will finally be satisfied with a lower degree of autonomy/status than e.g. Abkhazia – and accept such a status before the Abkhaz question is solved.

The Georgian and Adjar Rose Revolutions, judged rather negatively by Abkhazia and South Ossetia brought also new momentum to the South Ossetian conflict, as President Saakashvili seems to have chosen South Ossetia as the next territorial Georgian conflict to be solved according to his policy visions.

As in the case of the two Rose Revolutions Saakashvili tried at the outset to use "soft", i.e. social, humanitarian (free medical care, Georgian pensions for Ossetians, etc.), personal means to bring change about in South Ossetia. As this maybe moved too slowly and his second political credo after territorial integrity was fight against corruption he moved – against Control Commissions' and OSCE commitments - under the (correct) pretext of putting an end to the smuggle economy of South Ossetia, forces of the Georgian central government into the conflict zone, accusing at the same time also Russia to deliver military equipment to South Ossetia beyond the needs of the PKF.

June and July 2004 saw therefore heightened tensions in South Ossetia with almost all parties involved in one way or the other disregarding Control Commissions' and OSCE regulations and military threats from Georgia proper as well as from South Ossetia. Russia's position seemed to be ambivalent, depending on who from the Russian leadership/decision making circles interpreted the events.

On July 14/15 2004 a meeting of the Joint Control Commission that had been postponed for several times took place in Moscow, where the following was decided:

- to take measures to prevent any use of force
- to take measures for ensuring free delivery of humanitarian aid
- to put the Joint Control Commission on a permanent working regime in Tshkinvali until normalisation
- to call for the mass media to abstain from distributing inaccurate information

But the situation nevertheless did not calm down; with Georgia not evacuating their forces from the zone of conflict, South Ossetia undertaking military exercises and Russian representatives making provocative statements.

The solution of the South Ossetian conflict was to be dealt with primarily by the OSCE, an extraordinary OSCE Permanent Council meeting was held in Vienna that saw heavy Georgian – Russian accusations, blaming each side from its point of view the OSCE for either inactivity or biased approaches.

While the OSCE after the outbreak of the conflict was seen by Georgia as helping her to regain South Ossetia and after a certain time also seen by South Ossetia as a respected partner, things changed with the new Georgian government, the one side (Georgia) - while still respecting OSCE's engagement in the matter – having recourse to methods not foreseen by any of the agreements concerning the conflict solution, tried to make things happen quicker in its favour than methods by international organisations, the other side blaming the OSCE more than in the past for its one sided approaches of the matter. The Council of Europe and the EU also called on both sides to restrain from any use of force and to respect previous agreements in the conflict solution process.

As mentioned above NATO has also increased its attention towards the Southern Caucasus. Besides individual membership interests all three countries have PfP-programmes and two are interested in concluding an Individual Partnership Program with NATO. In the PfP framework one also tries to bring the conflicting parties together through the organisation of conferences, etc. – as do other international actors, also on the NGO level, e.g. *Conciliation Resources* for the above mentioned Georgian-Abkhaz dialogue.

Conclusions

We can now address the EU's role concerning the Southern Caucasus/Georgia, in general. All three South Caucasian countries have concluded Partnership and Cooperation agreements with the EU, which for quite some time has been the most important single donor to the region (especially Georgia), that foresee meetings of all three countries with EU representatives on ministerial sometimes presidential level in irregular intervals and so called visits in EU troika format to the region.

In such meetings conflict solution matters always figure as one of the topics to be discussed. The Georgian Rose Revolution also brought about the inclusion of the Southern Caucasus into the EU's "New European Neighbourhood Policy" – an instrument that could eventually use also levers/incentives for conflict solutions.

But as in the Adjar and Abkhaz case it seems that exclusive relying of the conflicting parties on conflict solution mechanisms of international organisations seem to become less important if one party to the conflict seems itself in a stronger position than before, thinking to be better able to solve the conflict "alone" or when the impression by at least one of the conflicting parties of an biased approach of the international community seems to prevail.

To sum up: What is the sense of conflict solution mechanisms by international organisations and how successful have they been in the Southern Caucasus? So far their success lies in the fact that any stronger military conflict could be halted – as it was sometimes described, the conflicts have been frozen. But can one characterize these efforts successful if after twelve years no permanent solution is in sight? Or are the conflicting parties themselves often not interested in a permanent solution fearing that they have to compromise too much and would be seen by their population/electorate as too compromising whereas the status quo either gives them the possibility to live their "independence" (Abkhazia, South Ossetia) or to put other negative domestic developments in direct relationship with the unresolved conflicts as a kind of (permanent) excuse? Or will parties rekindle the conflicts and try to solve them themselves in order to turn away attention from other, domestic, problems?

A certain part of truth lies in all these aspects: the international conflict solution machinery is sometimes too slow as it has to respect many facets and no one to-day seems able and (understandingly) willing to put all its efforts into the solution of just one conflict (besides so many others in the world). But on the other hand side conflicting parties have to understand that they finally have to compromise and that a conflict never erupts exclusively because of the fault of just one side. Do we have to change the international conflict solution mechanisms – we only can do this by consensus and perhaps this will be difficult to reach; the one who needs the help the most to-day might tomorrow already be in a position in which it prefers to have a freer hand. If there is no real sense of compromise on both sides of the conflict, it will be difficult to find solutions. Economic carrots could some times have effects – this could be maybe sought of more in depth by the EU who already in the past also contributed to rebuild conflict zones, e.g. in South Ossetia.

Chapter 6

Successes and Failures of International Observer Missions in Georgia

Axel Wohlgemuth

After the breakdown of the Soviet Union, Georgia attained independence but had to carry the heavy burden of separatist movements within its borders in different locations. To solve this problem the international community became heavily involved in Georgia. The nature of different institutions' involvement is specified below.

Abkhazia

During Soviet rule, Abkhazia was an Autonomous Republic within the Socialist Soviet Republic of Georgia, a constituent part of the former Soviet Union. The pre-war population of Abkhazia amounted to some 530,000 people, of which only some 18 per cent were ethnic Abkhaz. Ethnic Georgians comprised nearly half of the population; Armenian and Russians were the other two most numerous groups.

As the Soviet Union began to crumble, members of the leadership of Abkhazia launched an escalating series of demands for independence from Georgia. Open conflict began on August 14, 1992, when Georgian troops marched into Sukhumi, the capital of Abkhazia, driving the Abkhaz leadership north to Gudauta and launching a year-long armed struggle.

During the course of fighting, much of which was highly localised and personal in nature, at least half of the population of Abkhazia was displaced to other parts of Georgia and abroad. In all, approximately 300,000 people were displaced. In September 1993, the Abkhaz side won the war, with external assistance, by taking back Sukhumi and driving the remaining Georgian forces across the Inguri River out of Abkhazia. The former Autonomous Republic declared its independence. However, the independence of post-war Abkhazia is not recognized by the international community.

United Nations Involvement

Shortly after the cessation of hostilities, efforts began by the United Nations and the Russian Federation to produce a cease fire agreement. This was achieved, with the signing of the "Agreement on a Ceasefire and Separation of Forces" on May 14, 1994.

The UN plays a dual role in the post-conflict situation. The Special Representative of the Secretary-General for Georgia (SRSG) is simultaneously the chairman of the political peace process and the head of the United Nations Observer Force in Georgia (UNOMIG), which monitors the cease-fire on the ground. These activities are based on the premise that the military operations support the overall political effort.

UN engagement rests upon two basic principles for the comprehensive settlement of the conflict: firstly, Georgian sovereignty, independence and territorial integrity; secondly, the safe, secure and dignified return of refugees and Internally Displaced Persons (IDPs) to their places of previous permanent residence in Abkhazia.

For several years after the signing of the cease-fire agreement in May 1994, the UN and the Russian Federation led parallel tracks of negotiations, aimed at achieving a full political settlement. Despite many draft documents, these efforts produced no tangible results. At a meeting held in Geneva in November 1997, all existing peace process efforts were brought together under the umbrella of the United Nations. The UN assumed the chairmanship of the 'Geneva Peace Process' and the Russian Federation the role of "facilitator". The Group of Friends of the Secretary-General, including its Coordinator, France, Germany, the Russian Federation, the United Kingdom and the United States, have observer status, as well as the OSCE.

The Concluding Statement of the 1997 Geneva meeting set in place several ongoing mechanisms for negotiations and contacts between the two sides. Firstly, a Coordinating Council and three Working Groups, respectively address security issues, the return of IDPs and social and economic issues. The Council meets regularly, at prime ministerial level, under the chairmanship of the SRSG. Secondly, in the field of Confidence-Building Measures (CBMs), concrete cooperation projects are underway in wide varieties of fields, which are carried out with the support of the leadership of the two sides. Thirdly, a further element of the peace process is human rights protection. Experience has shown that human rights monitoring can play a crucial part in limiting conflict and creating the trust necessary for the sides to engage in dialogue.

Guided by this conviction, since 1997 the UN Human Rights Office in Abkhazia, Georgia (HROAG), with participation of the OSCE, has been functioning as an integral part of UNOMIG in Sukhumi. The day-to-day work of the Office includes visiting inmates in prison and assessing their conditions; capacity-building among local NGOs; monitoring criminal trials and conducting training seminars for officials. These efforts had a setback when the contracted local lawyer was shot dead opposite the UNOMIG HQ in Sukhumi in 2001.

The ultimate goal of the UN-led peace process is a comprehensive political settlement that includes defining the status of Abkhazia within the state of Georgia and bringing about the safe, secure and dignified return of refugees and IDPs. Despite all efforts, no such settlement has as yet been achieved.

UNOMIG's Role

UNOMIG was originally established in August 1993 by Security Council Resolution 858 (93). Its mandate was revised following the signing, on May 14, 1994, of the Moscow Agreement, which established the ceasefire and separation of forces in Abkhazia. In accordance with this Agreement, a Security Zone (SZ) of roughly 12 km was created on either side of the Inguri river cease-fire line. Military units are forbidden in this zone. Only personal weapons, (including RPGs) may be carried. On either side of the Security Zone is a broader Restricted Weapons Zone, in which tanks, armoured transport vehicles and artillery and mortars with calibres over 81 mm are prohibited.

UNOMIG consists of 103 to 110 military observers (UNMOs) from twenty two different countries. Its mandate is reviewed every six months by the UN Security Council. UNOMIG maintains mission headquarters in Sukhumi and sector headquarters in Zugdidi and Gali, on the Georgian and Abkhaz side of the cease-fire line respectively. Its primary tools for ensuring compliance with the Moscow Agreement are observation and patrolling, reporting, investigation and close and continuous contact with both sides at all levels. UNOMIG patrolling teams not only observe and conduct liaison; they also promote dialogue between CIS Peacekeeping Forces (CIS-PKF), heads of local administration, security personnel and local residents. A patrol usually consists of four UN military observers (UNMOs) and one interpreter.

The safety and security of unarmed military observers figure high on the list of the mission's concerns. Within the UNOMIG Area of Responsibility (AOR) UNOMIG personnel face both indirect and direct threats. Indirect threats occur due to mines left over from the war. Insurgents and bandits constitute a direct threat. There have been cases where UNOMIG patrols came under direct fire or were made the target of ambushes. The most common direct threat, however, is hostage taking. There have been seven hostage taking incidents since the beginning of UNOMIG operations. On all of these occasions the release of UNOMIG military observers taken was arranged after active intervention by the Georgian government.

The local inhabitants, the Svan, have mostly been responsible for these incidents. They could all be solved without casualties but created a hostile situation between themselves and UNOMIG. Without confidence building by a routine and secure UNOMIG presence, no NGOs have projects running in the valley the Svan inhabit.

These incidents created concern about the actions of some troop contributing countries. Whilst most were thoroughly supportive and contributed to the overall positive outcome, others avoided the normal channels of communication with UNOMIG to enter the negotiations from a different angle. This at times immensely complicated an already fraught situation and could have endangered the individuals caught up in these incidents. Support from UN-HQ, sending on requests for a professional negotiator from UN-Vienna within hours to Sukhumi, was crucial.

There have been several attempts by the Georgian government to query UNOMIG's authority in the Kodori Valley and the Kulevi training area, causing considerable disquiet in the mission, and which, if left unresolved, could have led to a spiralling negative effect on the authority and legality exercised by UNOMIG.

The most serious incident UNOMIG suffered from was when a UN helicopter was downed October 2001 in Kodori Valley by a rocket with the Deputy Chief Military Observer, four UNMOs, the Ukrainian flight-crew and a local interpreter killed.

UNOMIG, with its unarmed observers, has a deserved reputation in the area for impartiality. The mission's ability to intercede and resolve problems is fully recognised and the UNMOs on the ground are generally held in high regard. In short, UNOMIG's credibility is high. A stable environment has been provided signs of an improving security situation in the Area of Responsibility. The general security situation is as good as can be expected under the prevailing circumstances. The locally brokered separation of forces agreement has proved effective. Concerning the local police and militia there is to state that the area would need an effective law enforcement presence to prevent illegal crossings and to exchange information. It is apparent to all parties that the criminal element, operating freely in the Security Zone, is the common enemy.

UNOMIG established a Joint Fact-Finding Group to investigate all criminal incidents with a political connection. This group, consisting of personnel from UNOMIG, CIS-PKF, local militia, and lawyers from both sides, plays an increasingly important part in the administration of local justice. Their activities formalise investigations and encourages mutual confidence through greater bilateral contacts across the cease fire line and amongst local commanders.

The mandate tasks UNOMIG to monitor and verify compliance with the Moscow Agreement and to observe the operations of the CIS-PKF as stipulated in the Moscow Agreement.

The CIS Peace-Keeping Force (CIS-PKF)

The CIS-PKF maintains stationary checkpoints along both sides of the cease-fire line. CIS-PKF comprise of some 1,500 officers and soldiers from the Russian Federation.

The relationship between UNOMIG and the CIS PKF is excellent. In the area of formal liaison and on a more personal basis at the checkpoints, cooperation has been remarkably good. The CIS PKF has involved itself in local assistance projects and in providing security assistance to UNOMIG and NGOs.

They share information of mutual interest and have shown a willingness to involve themselves in joint investigations. However, CIS PKF could be involved even more actively in allaying local concerns and in gaining locals' confidence, especially with the Georgians.

The strongest weapon of UNOMIG is the fact that the officers are unarmed which implies that they are in no way a threat to the local population. CIS PKF soldiers are armed so they could provide security

assistance to UNOMIG on special missions. Since both organisations commenced their duties, UNOMIG has lost nine members in action, the CIS PKF more than 100.

However, their performance as peacekeepers is linked to their mandate. Whenever they have a current mandate from the Executive Council of the CIS States, it is clear that their motivation is much stronger than at times when they lack one. Understandably, in view of their casualty toll, their role is at times cautious and reactive. It is essential for their political credibility that a real CIS orientation is given to the structure of the force by the inclusion of other participating countries. Their effectiveness would also be considerably enhanced if their manning levels were raised to the mandated 3,000 with commensurate resource support and backing by the CIS members.

Additionally, the Russians have military bases in Georgia in Gudauta (in Abkhazia), in Batumi, Akhalkalaki and an airfield in Vaziani totalling approximately 1,500 soldiers.

Challenges to the Peace Process

UNOMIG's work is based on one of the most extensive mandates of all UN peace missions ranging from the observation of the ceasefire to a comprehensive political settlement of the conflict. Indisputably, there has been progress in some areas. The situation on the ground has become more stable over time despite recurrent incidents in the area of responsibility. This has helped to lay the groundwork for a solid peace process. On the other hand, there is little significant progress on the central political issue of defining the future status of Abkhazia within the state of Georgia.

The major challenges to UNOMIG's work are the following. First, further stabilisation of the situation in the conflict zone on both sides of the cease-fire line remains a prerequisite for any serious effort in the political arena. Both sides have committed themselves to the non-use of force. Within the Coordinating Council framework a network of security arrangements has been worked out. The full implementation of these agreements is most urgently needed, along with visibly improved cooperation between the law enforcement bodies of both sides.

Second, the safe, secure and dignified return of all refugees and IDPs to their places of origin is one of the basic goals of the peace process. This applies, as a matter of priority, to those IDPs who have already returned to the Gali district. The Gali district, located along the northern side of the cease-fire line, is the southernmost region of Abkhazia. Almost all of its 90,000 residents before the war were ethnic Georgians. The majority have chosen to return to their home villages, where they continue to live in precarious security conditions. Seeking mechanisms to ensure their security is a still unresolved component of the peace settlement efforts.

Third, the deepening and widening of an atmosphere of mutual confidence and reconciliation between the Georgian and Abkhaz sides is of utmost importance. Without mutual trust any lasting peace effort is bound to fail. The Conferences of Confidence Building Measures have

produced a number of concrete recommendations which have now to be implemented.

Fourth, as the peace process moves forward, economic cooperation between the two sides should be enhanced. Following the war of 1992 – 1993 much of the housing and physical infrastructure of Abkhazia remains in shatters. It is in the interest of both sides to reconstruct war damages.

Lastly but most importantly, unless meaningful negotiations between the two sides on the issue of the future status of Abkhazia within the state of Georgia are opened, the entire peace process remains in jeopardy. To this end, the UN Mission has worked out a political framework document which, after consultation with the Group of Friends, is designed to be submitted to both sides.

All major components of the peace process, including the status issue, should be pursued in parallel. Despite shortcomings the peace process has evolved. Specifically, the two sides now communicate directly and frequently at all levels and concerning a wide variety of issues. This was not the case several years ago. Furthermore, all the necessary mechanisms to affect change are at hand. What is now required is sufficient political will on the part of the two sides to make the best use of these instruments and to move toward a full settlement of the conflict.

Problems to be Addressed

UNOMIG finds itself in a situation where both sides have been content to ignore their obligation to move forward in the peace process. Both believe that time is on their side. Georgia does so on the basis that provided they adopt a pro-western and particularly a pro US stance; their new-found friends will help them out. The Abkhazians, of course, are content with the status quo as it enables their quasi- independence to gain greater legitimacy. Certain key players involved in the region also have reason to consider a stalemate an advantage as it aids their particular geo-strategic or geo-political preferences. Their proper influence is sometimes not felt where it should be and their approach to resolving Georgia's problems is very low key.

There have been attempts to take away or even 'hijack' the management of the peace process from the UN's auspices have occurred, particularly by Russia and the OSCE. Troop contributing countries have also constrained UNOMIG's effectiveness by limiting the amount of time spent on the ground by UNMOs. The lack of continuity that this creates is a considerable concern. One year should be the minimum tour for all UNMOs. Additionally, some countries have at times applied pressure on the CMO to employ their officers in a particular manner, affecting UNOMIG's cohesion.

There is also an apparent disconnect in communication between the representatives of the troop contributors in New York, their diplomatic representatives in Tbilisi and their own UNMOs in the mission. Occasionally it could be seen that the national views of some participants, particularly the nations in the Group of Friends of the

Secretary General, varied due to parallel channels of reporting and lack of sharing information (however, it should be noted that the mission has successfully brought together professional officers of armies from around the world).

The single greatest destabilizing influence in the UNOMIG Area of Responsibility is the Abkhazian Government-in-Exile. They have political and partisan links (with or without Georgian blessing). As long as this group remain a militant force on the Georgian side it is unlikely that a scaling down of violent incidents will occur. Their existence is necessary for the internal politics of Georgia only, not for an overall settlement of the conflict.

There are also enduring humanitarian concerns. In the Gali region which is the main focus of UNOMIG operations there is a correlation of expectation between the humanitarian organisations and UNOMIG amongst the local people. IDPs are in a difficult situation and have a dependency on external assistance and reassurance. It makes no difference to them whether they are making demands on UNHCR or UNOMIG. While UNHCR has funding UNOMIG has no money to help the locals. That endangers the situation for the military. Frustration and resentment from poor people, and, from their perspective, unrecognised situation leads to an attitude of blame, which tends to focus on the frontline internationals represented by UNOMIG patrols. The situation created is a risk to the security of the patrols. This issue is not only demoralising for the UNMOs, it also creates conditions ideal for exploitation by extreme elements.

The respect in which UNOMIG is held in and around the ceasefire line has occasionally led to higher expectations than the mandate allows. But the UNMOs have capitalised on their status, have adequately filled the vacuum of responsible security activity and government left by both parties.

It would be naïve hope for a quick end to the mission. All the confrontational elements remain and small military successes do not make a solution. Hopes for progress still lie on the shoulders of the Abkhaz administration and the new Georgian President.

Chapter 7

Foreign Forces in Georgia: Status, Legitimacy, Prospects

Mindia Vashakmadze

After Georgia regained her independence in 1991, the presence of foreign military forces on its territory became one of the most crucial political problems facing the young state. The foreign forces in question are of course Russian ones and the immediate question to Georgians is: when will they leave? The question remains unanswered in 2004. Negotiations over their future have been continuing for years and since the 'Rose Revolution' have moved closer to the centre of the stage. Today, when the new Georgian government is considering whether to make concessions to Moscow in terms of providing financial and technical guarantees for military withdrawal, it is appropriate to examine how far the existing legal framework legitimises Russian demands in this respect and how, on the other hand, it obliges Georgia to make any such concessions.

During the last decade the question of continued foreign military presence has been not only an issue of regional security but it has been inextricably linked with issues of national sovereignty. This Chapter will examine the deployment of foreign forces in Georgia by examining the legitimacy of their *de facto* presence, as well as their current status and prospects of presence. The legality of the deployment of foreign forces in Georgia has been repeatedly called into question by the Georgian authorities--especially by the Parliament. But Georgia's actual policy on Russian military presence or withdrawal has not always been consistent during the last decade. President Shevardnadze's tactical manoeuvres shifted, they certainly have not been consistent, and the new Government inherited his political arrangements.

Legality in international relations must, as a rule, reflect agreed-upon national policy, in this particular and important case, towards long-term military deployments of foreign forces of one country based in the territory of another, sovereign, or the receiving state. Reviewing the legal case made by the Georgian authorities to underpin its military deployment policy would help answer not only the question of the legitimacy and the status of foreign troops. It would also shed light on the question of how consistent the Georgian government has been on the long-standing and contentious issue of Russian military bases in Georgia.

But the consistency of state policy in this regard has to be founded upon the principle of the free and full consent of the host state

to foreign military presence. Inconsistencies in the state's position may have come about as the result of external factors such as the use or threat of force by a foreign power or extensive political and economic pressure. Moreover, such inconsistency may have been caused by internal factors, in particular, by the lack of political consensus-building within the state. In this respect, the exclusion of the principal security sector actors, especially the Parliament, from the formation of the nation's policy on foreign military presence, can be considered to be a reason invalidating agreements or making them questionable.

The principle of free and full consent is based on state sovereignty. A state that is able to declare and implement its full and free consent is sovereign. Therefore, the host state exercises its sovereign right, domestically and internationally, while allowing the deployment of foreign forces in accordance with the above-mentioned principle. Thus the stationing of troops without the full consent of the host state can be qualified as a violation of its sovereignty and, therefore, a breach of fundamental principles of international law.

The free and full consent of the state to the deployment of foreign forces should be declared in a treaty determining the modalities of the consent. Moreover, a bilateral or multilateral agreement has to provide the necessary guidelines for the authorities of the country where foreign forces are stationed on how to manage a foreign military presence, on how to neutralise any threat created by their presence, and the duration of this presence. The absence of explicit consent on the part of the host state might create a legal vacuum that endangers the sovereignty of the host state. As John Woodliffe has stressed in his assessment of the former Russian military presence in the Baltic States:

It is virtually unheard-of for armed forces of one country to be stationed in another country in peacetime unless there is a status of forces agreement that prescribes, inter alia, a system of rules for allocating the respective jurisdictional competencies of the sending and the receiving states over members of the force in civil and criminal matters. In the absence of an agreement of this type, the position of a visiting force under customary international law is not wholly free from doubt¹.

Moreover, uncontrolled foreign military bases cannot jeopardize the consolidation of the security sector of the respective country under an effective central Government.

Legal framework and status of foreign forces in Georgia before 1993

The government of Zviad Gamsakhurdia considered the presence of foreign military forces in Georgia as a direct result of the occupation and annexation of Georgia by Soviet Russia in 1921. Accordingly, the Supreme Council of Georgia, elected on October 28, 1990, declared the

¹ John Woodliffe, *The Peacetime Use of Foreign Military Installations Under Modern International Law*, (Dordrecht/Boston: Kluwer, 1992), p. 445.

troops of the Soviet Union deployed in Georgia as “occupant forces”². The Government was authorised by the Supreme Council to open negotiations with the Kremlin to begin their military withdrawal as soon as possible.

The government also addressed the issues of ownership of military property in Georgia and of jurisdiction over foreign forces as long as they were in the territory of a sovereign state. In November 1991, Gamsakhurdia demanded that all military property be handed over to Georgia. This was justified by Georgia’s economic contribution, in terms of resources and labour, to the creating the military property in question. Secondly, until the Soviet military withdrawal was completed, foreign troops were to remain under Georgian jurisdiction. These official, unilateral actions of the Georgian government were ignored by Moscow. There were no negotiations on the issue. Georgia had not yet received international recognition, whereas the Soviet Union existed legally until the end of 1991 and the appearance of a Russian Federation. Moreover, Soviet Interior Troops were stationed in the breakaway South Ossetia region in an effort to maintain order there. When armed confrontations broke out between Gamsakhurdia and his opposition, the Russian military supplied both sides with weapons and munitions³.

After Shevardnadze came to power in March 1992, he had to surmount the political disagreements that had sprung up between Georgia and the new entity in international relations, the Russian Federation, which had emerged from the ruins of the Soviet Union. President Boris Yeltsin had remade the Soviet army into a Russian army with a decree of May 7, 1992. At this time, Shevardnadze opted for a policy of prudent tactical acceptance. He expressed a desire to co-operate with Russia on resolving outstanding issues. At the same time, he considered the presence of foreign forces in Georgia as a European security problem. The first agreement between the Defence Ministries of both countries was signed on August 25, 1992 on ‘the Co-ordination of the Activities concerning the Security of Russian Military Forces in Georgia’. According to Article 2 of the agreement, the parties agreed to respect the legal status of Russian military forces in Georgia and to abstain from activities that would hinder the fulfilment of the rights granted to and the duties imposed on the military forces. The agreement, however, did not determine the status of Russian forces in Georgia or specify the rights and duties mentioned in Article 2. Thus, the agreement was aimed mainly at co-operation in police matters and the protection of foreign soldiers and their families from the threat of criminal and illegal activities. The agreement was made on a temporary basis and was to remain in force until such time as relations between the two countries on the issue of the military and the status of deployed forces had been determined. At the time the agreement was signed there was no elected parliament in Georgia and, consequently, a democratic participation in the formation of the agreement could not be provided.

² Resolution of the Supreme Council of Georgia, adopted on 15th September 1991.

³ *Akhali 7 dge*, Georgia’s weekly newspaper N3, 31st January – 7th February 1992.

The outbreak of the civil war in Abkhazia made the question of the foreign military presence in Georgia even more crucial. In the cease-fire agreement signed in Moscow on September 3, 1992, the parties agreed on the strict neutrality of foreign troops “temporarily deployed” in Georgia. As one of the military bases was located in Abkhazia, the neutrality of Russian troops in the armed conflict was questioned by the Georgian authorities, with good reason. Moreover, mercenaries from the Northern Caucasus fought on the side of the Abkhazians. There was a provision explicitly prohibiting the participation of foreign soldiers in the fighting. “All illegal armed groups” were forbidden to enter Abkhazia. After the Abkhazians broke the cease-fire agreement on October 1, 1992, the involvement of Russian soldiers and mercenaries in the conflict became obvious. In a letter to the United Nations, the Georgian Parliament stated that it considered the activities of Russian troops in Abkhazia during the conflict as aggression against Georgia⁴. Consequently, the Parliament demanded the Executive to arrange a withdrawal plan with Russia by the end of 1995. Thereupon Shevardnadze issued a decree on the military withdrawal timetable in April 1993. In 1993, the position of the Parliament and the Government seemed likely to become the same as to the fundamentals in this matter. However, Shevardnadze attempted to work with officials in Moscow and to regain Russian support in the Abkhazian conflict. In his letter to President Yeltsin, he stressed that “thousands of Russian soldiers and military commanders participated in the military activities against Georgia”. He also called on Yeltsin to desist from military intervention in Georgia⁵.

With the help of Russian mediation, another cease-fire agreement was concluded on July 27, 1993. It reiterated the neutrality and temporary nature of the Russian troop deployment⁶. However, the separatists and their supporters made use of the time after the cease-fire agreement to prepare for a final, decisive assault on the Abkhazian capital on September 27, 1993. After his return from Abkhazia, Shevardnadze declared that the capture of Sukhumi had been planned by the Russian military staff⁷. The United Nations Security Council reaffirmed “its strong condemnation of the grave violation” by the Abkhaz side of the Cease-Fire Agreement of July 27, 1993 between the Republic of Georgia and forces in Abkhazia, and subsequent actions in violation of the international humanitarian law⁸ and called on all states:

to prevent the provision from their territories or by persons under their jurisdiction of all assistance, other than humanitarian assistance, to the Abkhaz side and in particular to prevent the supply of any weapons and munitions⁹

⁴ Parliamentis Uzkebebi, 1993 N 5-8, pp. 103-104.

⁵ Archiv der Gegenwart, 1993, 37820.

⁶ Diplomaticeskij Vestnik, N 15-16 August 1993, p. 22.

⁷ Archiv der Gegenwart, 1993, 38370 A.

⁸ S/RES/876 (1993).

⁹ Ibid.

However, Russian involvement in the Abkhaz conflict was not directly and officially condemned by the United Nations Security Council, of which Russia is a permanent member with the right of veto.

Status of Foreign Forces Agreement of November 19, 1993

After the fall of Sukhumi, the situation worsened throughout the whole country. In November 1993, a former military commander of the ousted Gamsakhurdia regime, Eliava, rebelled in western Georgia and succeeded in bringing some of the smaller towns under his control. The state was on the brink of collapse, unable to resist further armed confrontations. Shevardnadze appealed to the peoples and governments of Russia, Armenia and Azerbaijan to help Georgia "...restore peace and order, to protect its territorial integrity and its choice – democracy and liberty"¹⁰. He suggested taking joint measures to protect the strategically important railways from western Georgia to Tbilisi and further to Yerevan and Baku, which had been paralysed by "illegal armed units"¹¹. Thereby, Shevardnadze in effect confirmed Georgia's readiness to become a CIS member. In the suppression of the revolt, the presence of foreign soldiers played a decisive role even without the use of force. As Shevardnadze later remarked: "Although they did not participate in the fighting, I cannot deny that the presence of the Russian soldiers gave us a great psychological boost"¹².

With the crisis was over, Shevardnadze was ready to compromise and accept Russian hegemonic interest in Georgia. A number of agreements were signed. Georgia became a member state of the CIS at the end of 1993, even though this move was opposed by the Georgian Parliament. A Collective Security Treaty of the CIS was also signed. Moreover, the Georgian government accepted the Russian military presence on a temporary basis. On October 9, 1993 the first "Status of Forces Agreement between Russia and Georgia" was concluded¹³, in which the temporary deployment of Russian forces in Georgia was accepted¹⁴. However, a timetable of military withdrawal was to be negotiated. The Agreement stressed a political partnership between Russia and Georgia. In return for his concessions, Shevardnadze expected a more helpful approach by Russia with regard to the Abkhazian question. The primary task of Russian forces, moreover, was to facilitate the revival of the Georgian army by assisting them in weapons-training and instructing them on military techniques. The Status of Forces Agreement included 'Jurisdiction over Foreign Forces', which, for the first time, determined the division of competencies in civil and criminal jurisdiction over foreign forces. The Agreement was to remain in force until the end of 1995 and could then be extended upon the respective decisions of both parties.

¹⁰ Diplotaicheskij Vestnik, N 21-22 November 1993, p. 16.

¹¹ Ibid.; Interview with Shevardnadze, Der Spiegel, 1993 44, p. 173.

¹² "Georgia Defends Renewed Ties to Ex- Soviet Bloc", The New York Times, 6th March 1994.

¹³ Diplotaicheskij Vestnik, N 1-2 January 1994, p. 38.

¹⁴ Status of Forces Agreement, Article 6.

The Georgian Parliament was opposed to Russian troop presence before the treaty was signed and consequently, did not ratify it. Furthermore, during the negotiations, it became evident that the two delegations had differences of opinion on many substantive questions. The Georgians sought to achieve the withdrawal of foreign troops by the end of 1995 and to include this commitment in the treaty. The Russians insisted on the deployment of their troops in Georgia without any timetable for withdrawal. At the same time, Russia exerted political and economic pressure on Georgia. It refused to conclude an economic agreement with Georgia before the Abkhaz conflict was contained. The problem of allocating military property also remained unresolved. On the other hand, Russia insisted on formalising military co-operation via the bilateral treaties as soon as possible. Thus, the legalising of its military presence in Georgia was a top priority for Moscow officials. The main problem fuelling mutual suspicion was the situation in Abkhazia and the involvement of Russian forces in the conflict¹⁵. The Georgian delegation protested against Russian participation in the bombing of Sukhumi, the regional capital, during negotiations in Moscow¹⁶.

Despite the refusal of the Parliament to ratify the Status of Forces Agreement, Shevardnadze attempted to carry out his compliance toward Russian military presence in the country. He declared void the resolution of the Supreme Council, adopted under Gamsakhurdia in 1991, which had declared foreign forces 'occupants'. Instead, he directed the temporary application of the Status of Forces Agreement and other treaties devised to regulate the foreign military presence in Georgia. A difficult, perplexing situation developed in which, on the one hand, the political leaders of Georgia alleged the involvement of the Russian military in armed activities against Georgia; nonetheless, on the other hand, they were compelled to recognise that there was no feasible means of resolving the conflicts in the separatist regions without the help of Moscow officialdom. A lack of effective international support at the time – in addition to Shevardnadze's ambiguous policy – contributed to the dilemma. A hoped-for extensive United Nations role in conflict solution failed to come about. Under the circumstances, the Georgian government was left with no real political choice if it wanted to turn to dealing with the critical problems in the country and to avoid the failure of the new Georgian state. Shortly before his first state visit to Washington, Shevardnadze declared in an interview with the *New York Times* concerning the Russian military presence in Georgia:

There is no agreement signed, and we must start negotiations in good faith. But the reality is that there is no way that Georgia can resist Russia. If the West does not like Russia's return to its former colonies, let the West suggest an alternative¹⁷.

¹⁵ *Diplomaicheskij Vestnik*, N 7-8 April 1993, p. 28.

¹⁶ Ibid.

¹⁷ "Georgia defends renewed Ties to Ex- Soviet Bloc", *The New York Times*, 6th March 1994, in Eduard Shevardnadze, "Georgia's Security Outlook", *NATO Review*, Vol. 41, No. 4, August 1993, pp. 7-10.

Thus it is evident that the 1993 Status of Forces Agreement was concluded in an atmosphere of political and economic pressure exerted by Russia. Therefore it did not provide any proper legal basis for further military deployment in Georgia. It was, moreover, a provisional measure designed to neutralise destructive Russian influence in Georgia until 1995. The mistrust between the sides was too great to build an equal contractual relationship. Furthermore, there were many controversial questions not resolved during the negotiations and not included in the agreement.

Framework Agreement on ‘Friendship and Good Neighbourhood’ of February 3, 1994

The next attempt to establish a legal basis for military co-operation with Russia was made in February 1994 when a framework agreement between Russia and Georgia on ‘Friendship and Good Neighbourhood’¹⁸ was concluded. However, the agreement did not directly regulate the Russian military presence in Georgia. According to it, the parties had to take appropriate measures to guarantee the effectiveness of the treaty on the “temporary” Russian military presence in Georgia. The measures, however, were not clearly stated. In addition, the Defence Ministries signed a protocol to legalise the foreign military presence beyond 1995, when the Status of Forces agreement was set to expire, in order to avoid a legal vacuum during the transition period until the new legal regulations came into effect.

According to the Friendship Agreement, Russia and Georgia undertook an obligation not to participate in military alliances that could be directed against either of the parties.¹⁹ Furthermore, Russia promised to help in reconstructing the Georgian army²⁰. One of the crucial problems during the negotiations was to define the status of national minorities in the framework treaty. At the time, it was an officially declared priority of Russian foreign policy to protect the interests of Russians living in neighbouring countries. In this regard, the stationing of troops was one of the policy means. This cornerstone of Russian foreign policy in relation to the states of the former Soviet bloc became clear when President Yeltsin expressed his unwillingness to allow military withdrawal from the Baltic states for as long as the rights of ethnic Russians—so he alleged--were violated in those countries. After the disaster in Abkhazia, the Georgian political leadership, especially within Parliament, was greatly concerned about the future role of Russia in Georgia. Some parliamentarians contended that the provision on the legal status of national minorities constituted a clause opening the way for intervention in the internal affairs of Georgia. Following lengthy discussions, the Georgian side succeeded in enshrining a provision in the

¹⁸ The phrase may also be translated into English as “Friendly Relations and Neighbourliness”.

¹⁹ Treaty on Friendship and Good Neighbourhood, Article 4.

²⁰ Ibid., Article 3.

agreement that also established a duty of national minorities to contribute to the democratic developments in Georgia.²¹

The Abkhazian problem remained a crucial factor during the negotiations. Georgia's Foreign Minister declared that the activities of Russian troops in Abkhazia made the negotiations difficult and claimed that it was hard to speak about friendship when the troops of the contracting party were carrying out acts of aggression against their counterparts²². Thus the signatories agreed that final ratification of the framework agreement should take place after the Abkhazian conflict had been resolved. The conservative-dominated Russian Parliament did not ratify the agreement, which formally stipulated the territorial integrity of Georgia; the Georgian legislature ratified it on January 17, 1996. According to parliamentarians' arguments²³ and Georgian Foreign Ministry, the ratification of the agreement had to minimise the abuse of power by Russia and to bind Russia legally, especially in order to limit Russia's military potential²⁴. However, the existing controversies between the parties essentially rendered the Friendly Relations Agreements a dead letter.

Stationing Treaty of September 15, 1995

The next and most significant effort to legalise Russian military presence in Georgia was made on September 15, 1995 when the bilateral Stationing Treaty was signed in Tbilisi by Shevardnadze and Russia's Prime Minister Chernomyrdin. This document contained far-reaching concessions to Russia from the Georgian Government. According to the treaty, foreign troops were to be stationed in four military bases located in Vasiani, Batumi, Tbilisi and Akhalkalaki, and could remain there for twenty-five years. Increasing the numerical strength of Russian troops in Georgia was not precluded under the treaty. It is worth noting that the military bases were mostly located in areas where the control of Georgian government was weak or nonexistent. The stationing treaty was an attempt by Russia to secure its strategic interests in the Southern Caucasus through the formal legitimisation of its military presence. Formally, the treaty provisions stipulated a strategic partnership between Russia and Georgia. The protection of the sovereignty and security of Georgia was declared as a primary purpose of the military bases. The treaty terms implied a potential external threat to Georgia's sovereignty from which the country had to be protected by Russian forces. Foreign troops had to guarantee peace and stability in the Southern Caucasus. Furthermore, they had to strengthen the defence capabilities of both contracting parties. In fact, this was a further stage in Shevardnadze's concessions policy which entailed the rapprochement of Georgia with

²¹ Ibid., Article 9.

²² The Speech of the Georgian Foreign Minister in the Georgian Parliament on 4th March 1993, in the stenographic protocol of the sitting of Parliament of 4th March 1993, pp. 62-65 and p. 83.

²³ Stenographic protocol of the Parliamentary sitting of 17th January 1996, pp. 23 - 25.

²⁴ The Speech of the Foreign Minister of Georgia in the Parliament of Georgia, in: stenographic protocol of the Parliamentary sitting of 4th March 1993, p. 59; stenographic protocol of the Parliamentary sitting of 10th March 1993, p. 78

the true source of recent threats to its sovereignty. It hoped for the neutralisation of this threat, and, ultimately, at possible benefits that Tbilisi might derive from Russia's eventual role in restoring the territorial integrity of Georgia.

The conclusion of the Stationing Treaty by Shevardnadze, who did not consult Parliament before it was signed, caused disagreement between the President and the legislature. Some parliamentarians accused the president of taking important decisions without any parliamentary consent and deliberation²⁵. The reaction of Parliament was triggered by great public anxiety about the foreign military presence, and by past experience of the Status of Forces Agreement of 1993, when the draft agreement was actively discussed in parliament before it was signed. Moreover, at the time of the treaty's conclusion, the new Georgian Constitution of August 24, 1995 had entered into force. It determined the legal status of foreign troops and entrusted the Parliament with the right of consent to the deployment of foreign forces in the country. During his presentation to Parliament, the President defended his decision by referring to the difficult situation in Abkhazia and argued that Russia had a potential role in solving the conflict. By taking this decision, he claimed, he was attempting "to save many lives in Abkhazia and to get guarantees for this purpose" from Russia. At the same time, he recognised the decisive role of the Parliament in enforcing the treaty and confirmed that the last word in this case rested with Parliament²⁶. Indeed, the enforcement of the Stationing Treaty was conditioned by an additional protocol, which was not to be made public, but according to which Moscow had to assist Georgia in strengthening its army and re-establishing Georgia's territorial integrity²⁷. But subsequent events showed that Moscow had no genuine interest in resolving the Abkhazian conflict, since the continuation of the tensions would enable Russia to be present in Georgia's frozen conflicts in the coming decades. The Georgian Parliament never ratified the Stationing Treaty.

In 1994, the Georgian government started to co-operate with NATO under the PfP programme, which opened up possibilities for military and defence co-operation with the West. At the same time, Georgia concluded strategic partnerships with certain other CIS countries in which Russia had no involvement. One example of such a partnership was GUUAM. The USA increased its military assistance to Georgia, which, in turn, enabled the country to form its own border guard. Thereupon, Russian border forces were withdrawn from Georgia in 1998. However, the foreign policy of Shevardnadze still remained unclear; he was trying to balance Russian hegemonic interests and Western support in the region. However, the first signs of the decreasing Russian hegemony had already begun to appear after 1995.

Until April 1999, Georgia was a member state of the CIS Treaty on Collective Security adopted on May 15, 1992. The bilateral Stationing Agreement signed in 1995 determined that the main tasks of

²⁵ The stenographic protocol of the sitting of Parliament of 19th September 1995, pp. 10-11.

²⁶ Ibid.

²⁷ These conditions were enshrined in the Appendix to the treaty, adopted on 25th March 1995.

foreign troops in Georgia must be based on the Collective Security Treaty. This reference, once again, implied an external threat from which Georgia had to be protected by Russia. In fact, Moscow's goal was to keep Georgia within the Russian zone of influence for as long as possible and, thereby, to guarantee Russian hegemony in the region. It soon turned out that the collective security treaty could not become an effective mechanism for Georgia to implement its national interests. The promised military aid from Russia was not delivered. There was no willingness on the part of Russia to reach an agreement on the dissolution of military property. Moreover, Russian peacekeeping forces deployed in Abkhazia from 1994 were unable to resolve the most urgent problems in the conflict zone. In the words of the Georgian Foreign Minister, "[in fact] the peacekeepers have established an artificial border between the territory controlled by separatists and the rest of Georgia"²⁸.

Furthermore, membership of the collective security system distanced Georgia from the West. This was clearly not in Georgian interest, especially throughout the second half of the 1990s, when the detrimental influence of Russia and unresolved problems within the country were growing more acute and the Georgian Government required assistance from the wider international community. In April 1999, Georgia suspended its membership of the Collective Security Treaty of the CIS. In fact, given the concessions policy of Shevardnadze, this proved a breakthrough, and signalled a shift in the mood of the Georgian political leadership.

Istanbul Declaration of November 17, 1999

In the context of Georgia's closer co-operation with the West, it became possible to put the question of the foreign military presence in Georgia on the international agenda in 1999. Georgia's participation in the revised treaty on Conventional Armed Forces in Europe enabled its Government to demand the partial withdrawal of foreign troops from Georgia. On November 17, 1999 the parties arrived at a consensus to withdraw two military bases from Vasiiani and Gudauta by July 1, 2001. This obligation was enshrined in the common declaration of Russia and Georgia annexed to the revised treaty²⁹ and was seen as a pre-condition for the ratification of the treaty. The declaration granted Russia the right to deploy its military bases in Batumi and Akhalkalaki "temporarily"³⁰. The negotiations on the time limit of the deployment and on the status of the remaining Russian military bases in Georgia were to be completed in 2000³¹. Georgia undertook an obligation to create the pre-conditions for the military withdrawal from the country, and the OSCE were ready to help financially in this matter³².

However, the withdrawal of foreign soldiers from Gudauta was beset with problems. Russia did not meet the timetable set out in the

²⁸ The Speech of Foreign Minister of Georgia at the 57th Session of the United Nations General Assembly, September 20, 2002.

²⁹ <http://www.osce.org/docs/english/1990-1999/summits/istadeel99e.htm>.

³⁰ The Istanbul Declaration of 17th November 1999, Par. 3.

³¹ Ibid., Par. 5.

³² Ibid., Par. 4.

Istanbul Declaration, which caused political tensions between the two countries. The Georgian Parliament declared that the delay in the agreed military withdrawal represented a violation of Georgian sovereignty and, in effect, support to the separatist regime of Abkhazia. Moreover, it was an attempt to legitimise *de facto* occupation and annexation of this part of Georgia³³. International pressure was also growing on this issue. Although the Russian Government declared on November 9, 2001 to have fulfilled the obligation undertaken under the Istanbul Declaration, Georgia nonetheless voiced further concerns. The Georgians were not able to control the withdrawal, while international observers were not allowed to verify whether Moscow was fulfilling the obligations it had undertaken under the treaty. Officials in Moscow justified the delay in the withdrawal, partly by emphasising the resistance of the local population in Abkhazia to their pulling out. Russian Defence Minister Ivanov stressed that he did not want to force the Russian withdrawal.³⁴ Moreover, Russia claimed that Georgia had failed to create the pre-conditions for military withdrawal according to the Istanbul agreement. The Georgian Ambassador to the United Nations expressed Georgian as follows:

...Russia illegally maintains military bases in Gudauta, Abkhazia that operates against the consent of Georgia and in contravention to the international commitments undertaken by the Russian Federation during the Istanbul Summit to have it dismantled in 2001. The only explanation given is that the Abkhaz opposed the dismantling of those bases and the withdrawing of their military equipment. This logic will dictate that any sizable group of people could effectively block or cease control of military, nuclear installations and armaments among them, provided they are as insistent as the Abkhaz³⁵.

Later, in July 2003, the Georgian Ambassador stated at a United Nations Conference that

...we may declare confidently that these three bases pose a major threat to the security of Georgia in terms of dissemination of arms to destabilizing forces in the country as well as in the region³⁶.

The problem of the international inspection of the military withdrawal from Gudauta still remains unresolved.

³³ The Resolution of the Parliament of Georgia, adopted on 18th July 2001 Par. 7.

³⁴ "Ivanov speaks on Russian Military Presence in Moldova, Georgia", *Interfax News Agency*, 24th July 2001, in: Lexis, Nexis Library.

³⁵ The Statement of the Permanent Representative of Georgia to the United Nations of 31st January 2003 on the situation in Abkhazia.

³⁶ The Statement made by the Permanent Representative of Georgia to the United Nations at the First Biennial Meeting of States to consider the implementation of the UN Program of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects at the national, regional and global levels, New York July 8 2003.

Negotiations on the “temporary deployment” of Russian military bases in Georgia, which have lasted over eight rounds of talks, are going nowhere. While Georgia demands the closure of military bases and withdrawal of troops within three years, Russia views Georgia’s plans as impracticable and insists on eleven years for the withdrawal³⁷. Yet there has been a negative international reaction to the Russian military bases policy in Georgia. The American Ambassador at the OSCE stated:

Within the OSCE, it is essential that we uphold the principle that military forces can only remain on the territory of another participating State under arrangements which have the complete consent of the host country³⁸.

Other states share this position³⁹. However, Russia demands further political, financial and technical guarantees to moderate its position on military withdrawal. On this issue Georgia depends greatly on the support of its Western partners. One of the Russian fears is that Russian troops could be replaced by US military forces. The Russian reaction towards the improving American-Georgian military co-operation has also been negative. According to the Russian Parliament, Russia would co-operate with the separatist regions of Georgia if the US military involvement in Georgia were to continue⁴⁰. The Russian Foreign Minister declared in an interview with *The Times* that:

...if the US is making arrangements with sovereign Georgia about the dispatch of military instructors there to combat terrorism, then, taking into account the proximity of that state to Russia and the fact that from the territory of Georgia terrorists are operating against Russia, they should let us know and consult us⁴¹.

The Russian Defence Minister has alleged that the deployment of the US military personnel in Georgia would have a bearing on the pre-conditions for Russian military withdrawal from Georgia⁴². This approach concerned not only the “Train and Equip” programme, but also the American-Georgian military agreement concluded in March 2003⁴³. It is obvious that the foreign military presence has been misused; it is a means of implementing a destructive hegemonic policy, which, in its turn, has had deleterious consequences for the consolidation of the Georgian state during the last decade.

³⁷ Bilateral talks held recently on 8th January 2004 brought no results (Georgian broadcasting company Rustavi 2, 8 January 2004).

³⁸ Web page of the Parliament of Georgia, <http://www.parliament.ge>.

³⁹ Recently, the German Chancellor also confirmed Russia’s obligation to withdraw during the first visit of the newly-elected Georgian President to Germany.

⁴⁰ Resolution of the Russian Parliament, 6th March 2002.

⁴¹ *The Times*, 13th March 2002.

⁴² The Statement of the Ministry of Foreign Affairs of Georgia, adopted in response on 29th March 2002.

⁴³ “Russia concerned over US-Georgian Military Accord”, *Civil Georgia*, 11th April 2003. Available at: <http://www.civil.ge/eng/article.php?id=4031>; also referred to in television broadcast on *Rustavi 2*, 16th April 2003.

Conclusion

The Georgian Constitution, as discussed in the Chapter on the legal foundations of security sector governance in Georgia, provides the legal conditions for the deployment of foreign military forces in the country in Article 100 paragraph 2 and Article 65, according to which Parliament plays the decisive role in legalising deployments of foreign troops in the country. The constitutional provisions mentioned above establish an essential sovereignty right of Georgia to grant complete consent to foreign military deployments freely and in accordance with the country's independence, territorial integrity and stability interests. In this respect, Parliament, as an indicator of public support for foreign military deployments, plays a crucial role in forming the country's consolidated security interests and legally binding agreements in respect of the stationing of foreign forces.

Some observers regard the issue of military withdrawal as a "litmus test for Georgian-Russian relations"⁴⁴. Therefore, it is important to place these relations on a proper legal footing, where the law does not become a refuge for the smaller country but a means of equality in their relationships. Even in the first mutual agreements regulating the foreign military presence in Georgia, it was stressed explicitly that foreign forces could be deployed in the Georgian territory only temporarily. After the separatist regime established its control in Abkhazia in 1993, the Georgian Government was compelled to make concessions and to allow a Russian military presence in the country.

According to Article 100 Par. 2 of the Constitution, for the purpose of state defence, in special cases, or cases envisaged by law, the decision to permit entry into and the use and movement of military forces of other countries on Georgian territory is taken by the President. The decision is immediately submitted to Parliament for approval and enters into force upon its consent. The Constitution does not differentiate between the interventions of foreign troops upon invitation, time-limited interventions, (for example, rescue operations), interventions on the basis of restoring legal order, counter-terrorist operations and the stationing of foreign military bases on Georgian soil for a relatively long time aiming at, for instance, the strengthening of a strategic and defence partnership. There is no special law on the stationing of foreign troops in Georgia by means of which this issue might be regulated. Therefore, in all cases of foreign deployment or transit in Georgia, parliamentary approval would be necessary. Because this provision was based on the historical experience that Georgia has had with regard to the stationing of Russian troops in the country, the Constitution provided for an explicit parliamentary agreement *a priori*. However, the foreign troops were already deployed in Georgia when the Constitution was adopted in August 1995. With respect to time-limited foreign interventions upon invitation, the same problematic rule can arise with regard to *a priori* consent, as already discussed above.

⁴⁴ Igor Torbakov, Moscow views military withdrawal as litmus test for Georgian-Russian relations, in: http://www.eurasianet.org/departments/insight/articles/eav012804_pr.shtml.

Furthermore, the Constitution determines the form of parliamentary authorisation. According to the Constitution⁴⁵, international treaties with any military content must be ratified by Parliament. Thus, entrance into and use of foreign armed forces within the country also must be regulated by an international treaty ratified by Parliament. There are various international military agreements – from important military arrangements to treaties that regulate technical issues of military co-operation. The Georgian Constitution does not differentiate between them. The Parliament ratifies treaties, concluded in different forms: agreements, mutual understanding memorandums, note exchanges. Thus, the scope of the international treaty on military issues, which must gain parliamentary approval, seems to be open to broad interpretation within the Georgian legal system. In addition, it must be stressed that international treaties involving Georgia, if they do not contravene the Constitution, prevail over domestic laws and other normative acts.

However, the Status of Forces Agreement concluded in 1993--not ratified by the Parliament of Georgia--envisaged only a temporary deployment of Russian troops until the end of 1995. The Stationing Treaty concluded on September 15, 1995 was constructed around long-term Russian strategic interests. The final ratification of the treaty was qualified on the termination of the conflict in Abkhazia in which Russia was to act as a mediator. The further pre-condition for ratification that Russia had to meet was its commitment to render assistance in the rebuilding of the Georgian army. The last attempt to clarify the legal status of foreign forces in Georgia was made in Istanbul in November 1999 when the parties signed a declaration in which partial military withdrawal was agreed. The Georgian side still harbours misgivings about the complete withdrawal of Russian soldiers from Abkhazia, where it itself has no control. Equally, the fate of other military bases in Batumi and Akhalkalaki remains unclear. The sides continue to negotiate without producing any definitive outcome. Russia attempts to retain its decreasing political influence in Georgia for as long as possible by keeping its troops in the country. However, given the growing international concern, this policy is not likely to be successful in the future.

The legal requirements for foreign military deployment in Georgia, internationally and domestically, are not fulfilled. In looking at the external influence exerted upon Georgia, we must conclude that there is no free consent on the part of the receiving state. On the other hand, if we examine the exclusion of Parliament from the formation of the deployment policy, which, in effect, ignores the sovereignty of the people, we must likewise conclude that there is no full consent of the receiving state to the stationing of foreign forces. Once again, this makes the legal effect of such consent questionable. There is no explicit consent by the state to the deployments of foreign forces. Moreover, there is no consent by action, or by silence, which could justify the temporary presence of Russian troops. Georgia drew none of the benefits

⁴⁵ Article 65.

from the presence of troops that it had expected. None of those conditions outlined in bilateral agreements were fulfilled. The mission of foreign troops is still not determined. The foreign forces, moreover, did not enjoy public support, and are seen as a threat to the national security interests of Georgia. They are supported only by those destructive elements working to undermine Georgian sovereignty. Moreover, soldiers and weapons belonging to the military bases remain outside the control of the Georgian administration. Consequently, foreign military bases could yet become a source of instability in the country. Indeed, they are not legitimate in the context of Georgian national security interests. They should be regarded merely as the basis for the waning, but destructive, Russian hegemony in Georgia.

The circumstances under which Shevardnadze declared in 1995 that the presence of foreign troops in Georgia was in the national interest of Georgians⁴⁶ have changed. Georgia is not alone vis-à-vis Russia in this matter. After the revolutionary change of November 2003, the new political elite of Georgia made its position clear that it will not tolerate the presence of foreign troops for an unlimited time. This position was, however, moderated by a constructive approach by the Georgian Government towards Russian security interests. The visit of the newly-elected Georgian President to Moscow on February 11, 2004 shed no light on the future status of the military bases and the modalities of the withdrawal of the troops from Georgia.

After the sweeping political change that occurred in Georgia in November 2003, the international community is now paying more heed to developments in Georgia. Therefore, the new Georgian leadership has an excellent opportunity to mobilise international support on the question of Russian troops on its territory. The presence of Russian troops in Georgia will be regarded by other nations as a violation of an international commitment. Under these circumstances, the task facing the new Georgian leadership, which will have to consolidate the security sector of the country, is to elaborate a consistent position with regard to the inadmissibility of the Russian military presence in Georgia. International support and a consistent position by the Georgian Government might lead to a successful solution to this much-discussed problem, which is hindering the improvement of Russian-Georgian relations and the consolidation of security sector governance in Georgia under an effective and democratically-elected government.

⁴⁶ *Archiv der Gegenwart*, 1995, 40445.

Chapter 8

Non Governmental Organisations, Domestic and International, and Security Sector Governance in Georgia

Duncan Hiscock

This is an interesting, but in some ways inopportune time to consider the role of non-government organisations (NGOs) in security sector governance in Georgia, as the country continues to undergo huge changes and it is difficult to predict exactly how things will look once the dust has settled. The ‘Rose Revolution’ of November 2003 and the subsequent election of Mikhail Saakashvili as President on 4th January 2004 have already led to a large number of new appointments at both ministerial and senior official level. Many of those who entered the government have very close links to civil society actors; indeed, a lot of them previously worked for NGOs themselves. On the one hand, this means that the role and influence of civil society actors has suddenly greatly increased; on the other hand, some have already expressed fears that the closeness of many NGOs to the new government will limit their ability to act as a truly independent, constructively critical third sector.

It is too early to say whether these fears are justified, but improved co-operation between the state and civil society is clearly very desirable in a period of large-scale reform. The new administration has initiated reforms to the Ministries of the Interior (MOI), Defence (MOD) and State Security (MSS), significantly altering the form and quality of governance in the security sector. Several NGO representatives have been very active in (both formally and informally) advising those who are designing and implementing the reforms. Some are from organisations that have in some way focused on military and security matters in the past. Others are from organisations that may not have worked specifically on such issues but are concerned to see that reforms promoting democracy, good governance and the rule of law apply to the security sector as well.

This Chapter will thus attempt to provide the reader with a brief overview of what local NGOs have so far done in the field of security sector governance. This does not claim to be comprehensive, but to give a general impression of the direction in which the field is moving, and to identify some of those who are currently involved in advising on or monitoring the emerging reforms. Since the national growth in interest in security sector reform is being echoed at the international and donor level, it may be anticipated that the number of organisations wishing to work in this field will increase. This, combined with the current state of

flux in Georgia, means that it is quite possible that there could be a rapid development in the manner of NGO involvement in the security sector, and thus it may be necessary to revisit this topic soon. The focus of this Chapter will be largely on the interaction between the national government and civil society in Tbilisi. However, it will also briefly comment on the situation in three other areas which have specific security dynamics: the autonomous region of Adjara, and the separatist regions of Abkhazia and South Ossetia (Tskhinvali region). This is done in order to acquaint the reader with the situation across the territory that is formally recognised as Georgia, and should not be taken to indicate any political views on the part of the author.

NGOs and Security Sector Governance: What Roles can they Play¹?

Before surveying the field of play in Georgia at the moment, it may be beneficial to clarify the roles which civil society² can play in security sector governance. As Heiner Hänggi has noted in his study “Making Sense of Security Sector Governance”, there are still no agreed definitions of exactly what constitutes ‘security sector governance’ or even the ‘security sector’³. As the concept of security has expanded to include a range of paramilitary and non-military threats, so too has the range of actors deemed to have an influence in security matters. This has led to the identification of three groups of state actors (organisations authorised to use force, civil management and oversight bodies, and justice and law enforcement institutions) and two non-state actors (non-statutory security forces and civil society groups) which together form a wider ‘security community’⁴. The recent interest in security sector governance is mostly concerned with how successful these actors are in ensuring ‘good’ or ‘democratic’ governance of the security sector. It appears that consensus is gradually forming on certain ‘best practices’, including the existence of:

a constitutional and legal framework which...clearly defines the tasks, rights and obligations of the security sector’, civilian governmental control and parliamentary control and oversight over the sector. There should also be ‘a kind of ‘public control’

¹ This topic is considered in more detail in Duncan Hiscock, ‘The Role of Civil Society in Security Sector Governance in the South Caucasus’, Paper presented at the 1st Joint Workshop on “Security Sector Governance in Southern Caucasus – Challenges and Visions”, held in Reichenau, Austria 21st-24th November 2003. Available at: http://www.dcaf.ch/news/PfP_Reichenau1103/Papers/Hiscock.pdf

² Though the phrase ‘civil society’ is often used interchangeably with ‘NGOs’, civil society actually comprises a broad range of non-state actors, including the media, academic institutions, political parties and local interest groups. However, for reasons of space this paper will limit its focus to a consideration of the actions of NGOs.

³ Heiner Hänggi, “Making Sense of Security Sector Governance”, in Heiner Hänggi and Theodor H. Winkler (eds.), *Challenges of Security Sector Governance*, (Münster: LIT, 2003) p. 17. Available at: http://www.dcaf.ch/publications/e-publications/Sec_Gov/Chapter1.pdf

⁴ Hänggi, “Making Sense of Security Sector Governance”, p 10. See also UNDP, *Human Development Report 2002*, (New York, NY: Oxford University Press, 2002) p. 87; and Nicole Ball, “Democratic Governance in the Security Sector”, Paper prepared for UNDP Workshop on “Learning from Experience for Afghanistan”, 5th February 2002. Available at: http://www.undp.org/eo/documents/afghanistan-workshop/Nicole_Ball.pdf

of the security sector through the existence of a security community representing civil society...and nurturing an informed national debate on security issues⁵.

Expanding on the notion of ‘public control’, it may be argued that NGOs have three main functions in regard to the security sector. The first is to act as a public watchdog, monitoring the actions of the government and security developments more broadly. This is likely to be either from a security perspective – analysing whether government actions in a specific field (e.g. defence procurement, military strategy, or gun control policies) are effectively improving national and human security – or from a human rights and rule of law perspective, highlighting cases in which security sector institutions or individuals have violated commitments to national or international law. Secondly, NGOs can act as a pool of resources and expertise which both the government and the public can draw upon. Thirdly, NGOs also provide an alternative source of skilled civilian professionals which the state may be able to draw upon. The latter two functions may be particularly significant in periods of rapid change, as recent developments in Georgia have shown.

It is generally expected that the more effective civil society is in performing its monitoring role, the higher the standard of governance is likely to be. It is thus important to stress that although NGOs may often be critical of governments, they should not automatically be seen as a threat; rather, their aim is usually to ensure that the security sector acts in a transparent and democratic fashion, which would actually boost the legitimacy and strength of the state.

Georgian NGOs working on Security Sector Issues

The potential roles of NGOs outlined above represent an ‘ideal type’ for good governance of the security sector. To what extent, and with what efficiency, NGOs are able to perform these functions is of course another matter. This is true even in ‘developed’ Western democracies, which are also in the process of adapting to the post-Cold War (and post-9/11) security agenda. Hence no one should expect to find a strong, sustainable security community in a country like Georgia, which has experienced three violent conflicts, has less than fifteen years of independent statehood, and still suffers from weak government institutions. Indeed, there are few organisations in the country that work expressly on security matters; those that do exist often have their roots in (and continue to focus on) conflict resolution, reflecting both Georgia’s legacy of conflict and international donor priorities, which were particularly concerned with boosting ‘track two’ diplomacy (i.e. outside the formal peace process) once it became clear that official negotiations were stalling.

Nonetheless, there are a number of other organisations whose interests also extend to military and policing affairs. These tend to approach such matters from a human rights or rule of law perspective, in

⁵ Hänggi, “Making Sense of Security Sector Governance”, pp. 16-17.

effect responding to the widening of the concept of security to include justice and law-enforcement institutions⁶. Many of these groups are already active in advising the new administration on reforms, and it may be expected that their engagement in the security sector (and co-operation with each other) will deepen as the reform agenda develops. This section seeks to list some of the most well-known and influential of these NGOs, and to outline briefly relevant activities they have so far carried out. It will also consider the involvement of a few international NGOs that work on these issues.

Security and Conflict NGOs

One of the most well-established NGOs in Georgia is the Georgian Foundation for Strategic and International Studies (GFSIS)⁷, a think tank run by a number of senior academics, most also with experience as government officials. GFSIS's interests span a wide range of issues, from foreign policy analysis through to economic reforms. Alexander Rondeli, Temuri Yakobashvili and Archil Gegeshidze all regularly publish articles on conflict and security issues and are often interviewed by both the national and international media. GFSIS is thus one of the key organisations promoting public awareness of security matters. However, GFSIS also directly contributes to attempts to improve security sector governance through evening training courses for state officials and civil society representatives. Since 2001 over 50 people have been trained in public policy, economics, foreign policy and international security. In February 2004 a two-week course was also held for fifteen young professionals from Armenia, Azerbaijan and Georgia that included work on small states in search of security. A new one-year training programme in international relations and national security, financially supported by the US government, will begin in May 2004.

Another well-known Georgian NGO interested in security issues is the Caucasus Institute for Peace, Democracy and Development (CIPDD)⁸. Ghia Nodia and David Darchiashvili are both prominent academics who have published widely and participated in and organised numerous conferences on the armed forces, security, conflict, democracy and other related issues. A subdivision of CIPDD is the Centre for Civil-Military Relations and Security Studies, which has carried out a number of research projects. In addition, the Centre used to release a monthly bulletin (quarterly in Georgian) entitled 'The Army and Society in Georgia', which combined new analytical articles and a summary of relevant stories from the national press. This was funded as part of an EU TACIS project on civil control over military and security policy. Sadly, this bulletin has not been published since late 2001.

⁶ Just as many security organisations have a strong affiliation with conflict resolution initiatives, it may be argued that these human rights and rule of law organizations stem from another donor priority throughout the 1990s, democratisation.

⁷ <http://www.gfsis.org>

⁸ <http://www.cipdd.org>

As there are strict standards of security governance for members of NATO, this is a topic of great interest to Georgia for NATO⁹, one of three organisations in Tbilisi working to promote and enhance Georgia-NATO co-operation. It has recently begun a project entitled Civilian Control of the Armed Forces, which aims to develop model legislation for the Georgian Armed Forces in the field of security sector governance.

Other smaller organisations working in the general field of international relations and security include the Centre for Development Cooperation (CDC) and the Centre for Peace and International Relations Studies (CPIRS)¹⁰. Both of these NGOs have limited organisational capacity but have well-respected and experienced chairmen – Ivliane Khaindrava (CDC) and Irakli Mchedlishvili (CPIRS) – who are well-respected analysts of political and security affairs.

The activities of a couple of other NGOs should be noted that are more focused on conflict resolution and have not so far worked directly on security sector governance. The International Centre on Conflict and Negotiation (ICCN)¹¹, run by Giorgi Khutsishvili, is one of the largest and most well-known organisations in the country, and has been working on conflict resolution and peace building since 1994. Projects include peace and conflict management training for young political leaders and an early warning/early response network. The Tbilisi-based South Caucasus Institute for Regional Stability (SCIRS)¹² aims to bring together experts from across the South Caucasus to build confidence between the sides, reduce conflict and ultimately to establish a system of regional security. The SCIRS has close links to the Helsinki Citizens' Assembly Georgian National Committee (Ca GNC), the Georgian branch of an umbrella group of organisations working to ensure that the human rights provisions of the 1975 Helsinki Final Act are respected. The HCA was involved in the international campaign to ban landmines.

Human Rights and Rule of Law NGOs

In the aftermath of the 'Rose Revolution', Western analysts and journalists highlighted the role that NGOs had played in the overthrow of Eduard Shevardnadze. Attention was focused on radical student movement 'Kmara' and its connections with George Soros's Open Society Georgia Foundation and Serbian resistance movement Otpor. This has obscured the role played by several other organisations, in particular the Liberty Institute and the Georgian Young Lawyers' Association, in terms of both public criticism of election fraud and behind-the-scenes co-ordination and support of the protests. Though these organisations do not place security affairs at the centre of their work, they have an interest in ensuring that their efforts to improve governance and the rule of law in Georgia also extend to the security sector. Furthermore, being among the most well-known and influential

⁹ <http://www.nato.ge/en/>

¹⁰ <http://www.cpirs.org.ge>

¹¹ <http://www.iccn.ge>

¹² <http://www.scirs.org.ge>

organisations in the country, they may have more impact – being perhaps better connected both with those at the top and with the public at large – than some of the NGOs who come at security sector governance from a security or conflict perspective.

As its name suggests, the Liberty Institute¹³ is primarily concerned with the protection of civil liberties across Georgian society. Liberty's programmes are thus very broad in scope, from press freedom and freedom of expression through to public accountability in the energy sector. Liberty's involvement in security affairs began with the case of Amiran Meskheli, who despite being physically unwell found himself suddenly drafted into the army after he published a controversial interview with several soldiers. It then began raising concerns that conscription was a 'tax on the poor' (as anyone who can afford to avoid conscription through bribery), and highlighting other cases where sick or underage people were drafted illegally. The Liberty Institute also receives complaints about police abuse, and has promoted pilot schemes to set up civic oversight councils in a number of cities. It has also assessed laws relating to police and penal reform. The Liberty Institute has been accused on more than one occasion of being too close to Saakashvili¹⁴, but denies that this will weaken its ability to act as an independent monitor of individual liberties. It can be expected, however, that its close links to government will give it significant influence over anticipated reforms to the security and justice sectors wherever it chooses to comment, officially or unofficially.

The Georgian Young Lawyers' Association (GYLA)¹⁵ has focused on promoting the rule of law, raising public legal awareness, protecting human rights (including in cases of police brutality or corruption) and the development of the legal profession. As such, they currently do little work on governance of the security sector, except where it touches on other wider justice reforms. However, given the GYLA's important public standing and legal expertise, it could also play a key role in campaigning for and advising on reform security sector reform, should it so desire.

One legally-orientated organisation that has worked directly on the security sector is the Association 'Justice and Liberty', which campaigns for the protection of the rights of conscripts and soldiers. Following protracted discussions, it persuaded the military that the public had a legal right to monitor the army, and agreed to let them into certain military facilities. This led to the publication in 2001 of a book entitled 'The Georgian Army between Law and Reality' which looked at the situation in the army and highlighted certain abuses. This was well read within the army and led to the removal of several corrupt officers.

¹³ <http://www.liberty.ge>

¹⁴ See for example Subeliani, Sozar, 'NGOs Ready To Tackle Government's Failings', *Institute for War and Peace Reporting Caucasus Reporting Service*, No. 12, 23rd December 99. Available at: http://www.iwpr.net/archive/cau/cau_199912_12_04_eng.txt; and: "IAGJ Protests Against the Liberty Institute Insolently Interfering in the Activities of the Free Press", *IAGJ Press Release*, 3rd April 2003. Available at:

<http://www.iagj.org.ge/article2.htm>

¹⁵ <http://www.gyla.ge>

The Association continues to campaign for the rights of conscripts and soldiers.

Finally, the Association for Legal and Public Education (ALPE) is running an awareness raising campaign to promote behavioural change among the public and the police forces of Georgia, supported by the European Union.

International NGOs working in Georgia

In the field of security sector reform, the most important international organisation working in Georgia is probably the International Security Advisory Board (ISAB). Founded in 1995 under the chairmanship of Gen (ret.) Sir Garry Johnson of the United Kingdom, ISAB initially worked in Estonia, Latvia and Lithuania (at that time known as the International Defence Advisory Board or IDAB) advising these governments on security sector reform, before setting up a similar programme in 1999 at the request of the Government of Georgia. The Board has gathered together very experienced members from the UK, the US, Germany and the three Baltic States, and provides strategic policy advice directly to the highest levels of government. In particular, it has reported to the National Security Council on the key directions in which reform of the entire security sector should take and advised it on the drafting of a National Security Concept. ISAB expects its project in Georgia to run until early 2005, after which time it will likely continue to liaise with the government as necessary.

There are a number of international NGOs working together with local partners on various conflict and security matters in Georgia. These include International Alert¹⁶, Conciliation Resources¹⁷, the London Information Network on Conflicts and State-Building¹⁸ (LINKS), and the Heinrich-Böll-Stiftung¹⁹; International Alert also supports the Caucasus NGO Forum, which brings together non-governmental representatives from across the North and South Caucasus. However, their work has been mostly linked to conflict resolution and other dialogue and peace-building initiatives, and so does not deal directly with security sector governance; thus they will not be considered in detail here. London-based Saferworld²⁰ published a briefing Chapter on security sector reform in Georgia in September 2002²¹, and the International Institute for Democracy and Electoral Assistance²² (International IDEA) has also expressed an interest in working on security sector reform.

¹⁶ <http://www.international-alert.org>

¹⁷ <http://www.c-r.org>

¹⁸ <http://www.links-london.org>

¹⁹ <http://www.boell.de>

²⁰ <http://www.saferworld.org.uk>

²¹ Shukuko Koyama, "Security Sector Reform in Georgia", *Saferworld Research Report*, (London: Saferworld, 2002).

²² <http://www.idea.int>

Opportunities and Challenges for Georgian NGOs

The previous section has listed some of the main organisations that may be said to have an impact over security sector governance in Georgia. This part will look broadly at some of the challenges to their efficiency. Until recently, most observers had been cynical about the strength and sustainability of NGOs in Georgia. Though it was acknowledged, even celebrated, that Tbilisi was a cauldron of activity in comparison to much of the Caucasus, the organisational weakness, donor dependency, and low public awareness of virtually all Georgian NGOs were frequently underlined. The prominent role played by certain organisations in the Rose Revolution has led to a reassessment of civil society, highlighting some of its previously overlooked strengths. Yet how much has really changed? Though this Chapter is specifically about the security sector, this section will consider the state of NGOs more generally, since those NGOs listed above are in no way separate from the broader trends affecting the development of civil society in the country.

Organisational Capacity

Where organisational capacity is concerned it is of course the case that the same problems remain, as structures and resources cannot change that quickly. Though civil society has certainly grown and developed since the early 1990s, it is still a relatively new phenomenon. Not only does it take time for institutions to form, skills to develop and funding streams to be found, it is also a social, political and psychological challenge to understand NGOs for a country that had no real concept of a ‘third sector’ during Soviet times. This is a challenge for outsiders as well, however, as it is too easy to dismiss those institutions that do not conform to the Western understanding of what an NGO should ideally look like.

There are in fact very few NGOs that resemble established Western organisations with defined boards, management structures, permanent staff, and well-equipped offices. The number of registered NGOs in Georgia apparently stands at over 4,000²³, though estimates of how many of these are genuinely active range from an optimistic 500²⁴ to a more pessimistic figure of 60 to 70.²⁵ One of the main reasons is funding. Georgia’s economy is in a parlous state, and even those that are wealthy have not been philanthropically inclined. Georgian NGOs are thus overwhelmingly dependent on Western donors for support. The issue, however, is less the lack of money than the fact that donors tend to finance NGOs on a tightly defined project basis, leaving little left over for administrative or organisational costs. Furthermore, few can rely on getting projects regularly enough to commit to hiring regular salaried staff, beyond those that are traditionally trusted and favoured by donors.

²³ Levan Berdzenishvili, ‘Networking and Cooperation of NGOs’, 28th December 2001, <http://www.cipddd.org/gdiscuss/room01/disc1/00000010.htm>

²⁴ “Women NGOs in Georgia”, Women’s Initiative for Equality, November 1999. Available at: http://www.osgf.ge/wie/2_1.html

²⁵ Interview with Levan Ramishvili, 4th February 2004.

As a result, many NGOs are either made up of several individuals who each have several jobs and co-operate under the umbrella of their NGO when they feel it to be beneficial, or are little more than one-man shows.²⁶ Many registered NGOs were either set up to work on one specific project (or in the hope of getting funding for a project) or, regrettably, without even the intention of doing much at all.

Perceptions of NGOs

One effect of this situation has been that few NGOs can really claim to have much of a constituency. This is true even of many of the more active ones that are sometimes well-known and respected within the right circles but are not known by the public at large. At times, this has led to public scepticism over the effectiveness and motives of NGOs. Given that money from foreign donors represents a significant source of income in a state with limited opportunities, there are often suspicions that these groups are little more than ‘*grantichamia*’ (grant-eaters, ‘*grantoyedy*’ in Russian) and that they respond more to the needs of the donor hand that feeds them than to the real needs of the public. For example, in a survey of public attitudes towards human rights in 2002, 49.8 per cent of Georgians believed that human rights organisations “engage mostly in self-advertising and receiving foreign grants and their real assistance to people is insignificant”²⁷.

It seems, however, that attitudes towards NGOs may have changed in the wake of the Rose Revolution. Not only did several organisations campaigning on issues such as fair elections, democracy and the rule of law (including the Liberty Institute and GYLA, as discussed above) gain genuine public support and currently enjoy high recognition, the Revolution has kindled a pride among nearly all Georgians in the relative health of their country’s awareness of democratic and civic values.

NGOs and Government

If relations between NGOs and the broader public have altered since the Revolution, this is as nothing in comparison to the changes that are taking place to the relationship between NGOs and the government. Given the sensitive nature of military and security issues, a shift in this relationship is of particular significance to the success or otherwise of attempts to improve security sector governance.

As observed in the introduction, there has been a rapid changeover of staff across government, as many of the new political

²⁶ This section echoes much of what is written in Anna Matveeva, “The Conflict Prevention Capacities of Local NGOs in the Caucasus”, in EastWest Institute/Forum on Early Warning and Early Response Survey, *Conflict Prevention in the Caucasus: Actors, Response Capacities and Planning Processes*, (London: EWI (New York) & FEWER, December 2001). Available at: <http://www.fewer.org/caucasus/studcap.pdf>

²⁷ Regional Project “South Caucasus Network for Civil Accord”, ‘Situation with Human Rights in Countries of South Caucasus: Results of sociological surveys 2002’, Armenian Sociological Association, Yerevan 2003.

leaders have close links to some of the most prominent NGOs, and have invited a number of former NGO members to work for them. Though this process appears at the time of writing to be happening less quickly in the ‘power ministries’ (Ministry of Defence (MOD), Ministry of Interior (MOI), and Ministry of State Security (MSS)) – perhaps because the new president is particularly careful to ensure that he will have control over them – young but experienced professionals are joining these services and planning sweeping reforms to improve civilian control over these organisations and increase their efficiency.

One particularly positive sign is the establishment of a ‘reform group’ within the MOI. This is chaired by the Minister of the Interior, and brings together nine non-governmental experts from some of the organisations listed above, as well as other academics and lawyers (it is co-ordinated by a secretary from within the ministry). The group discusses the paths that reforms should take and provides suitable recommendations to the ministry. As the group is headed by the Minister, it can be expected that many of these recommendations already have approval from the top. Furthermore, the group apparently works on an *ad hoc* basis, rather than being an institutionalised consultation process, which may lead to fears that its influence will either diminish or that the group will simply no longer be convened.

In the months after Shevardnadze’s resignation, however, informal links and dialogue have been crucial, and are probably of much greater significance than the few formal co-operation mechanisms. Not only do many of the young reformers have close friendships and ideological common ground with prominent civil society leaders, a lot have also been lectured or trained at some point by some of the academics working on security matters for NGOs. On the other hand, it should not be forgotten that ‘civil society’ is not homogeneous and not all NGOs agree on any given issue, nor do they all have equal levels of access to government.

The Security Sector Beyond Tbilisi

This Chapter has so far focused largely on the relationship between Tbilisi-based NGOs and the security sector and central government. This is because security sector governance is primarily a national issue²⁸. Furthermore, the topic is specific enough that (as has been shown) there are few NGOs working directly on this matter even in the capital. There are occasional examples of organisations that have touched on security sector governance as part of their other work; for example, Intercultural Bridge (MOST), is planning to hold meetings on civil-police relations in Kvemo Kartli as part of a joint project on small arms in the area. However, there appears to have been no co-ordinated efforts to look at governance of the security sector (particularly the police) across the rest of Georgia.

We will now consider three regions within the boundaries of the internationally recognised territory of the Georgia which have

²⁸ Heiner Hänggi, “Making Sense of Security Sector Governance”, pp. 5-6.

significantly different security dynamics, to the extent that they are in effect different security sectors. As noted in the introduction, this should not be seen to indicate any political views on the part of the author regarding the status of these areas. Firstly, Adjara. Since the early 1990s, the autonomous region of Adjara often deliberately isolated itself from Tbilisi rule. It had, until May 2004, its own MOI and MSS, and at times 'closed' the administrative border with the rest of the country. It was run in an authoritarian fashion by Aslan Abashidze, who allowed virtually no political space for anyone else, either in terms of local opposition or in other Georgian parties. There have been few NGOs active in Adjara, and it has been almost unthinkable that any should try to criticise or even communicate with the security sector.

Secondly, Abkhazia. Since expelling Georgian troops in 1993, Abkhazia has operated as an unrecognised state with its own organs of government. Peace negotiations have not so far succeeded in making any major breakthrough, and there have been sporadic outbreaks of violence around the zone of conflict. As a result, the Army holds a particular place in Abkhaz society, as there is an understanding that it has won them 'independence' and protects them against further violence. This, combined with the small population of Abkhazia, means that security sector governance is not a topic that has received much attention as yet (there are fewer than fifty NGOs, many of which are part-time, though the capacity of civil society is slowly developing) though some NGOs meet regularly with government officials to address areas of concern, and the security sector is probably touched on during other work on human rights and law-enforcement. It is worth noting that the veterans' organisation, Amtsakhara, a strong political force in opposition to the ruling regime, does not have a clear agenda for army reform beyond ensuring that servicemen are well provided for.

Finally, South Ossetia (Tskhinvali region). Like Abkhazia, South Ossetia (often referred to as the Tskhinvali region by Tbilisi), also broke away from Tbilisi's rule, and has also functioned as an unrecognised state since July 1992. Though relations between Tskhinval(i) and Tbilisi are better than those between Tbilisi and Sukhum(i), a final settlement still appears out of reach. The main question for security sector governance in such circumstances is 'who governs?', and joint peacekeeping forces and police co-ordination initiatives, supported by the OSCE (the main international organisation involved in mediating the conflict), have been central to reducing tensions between the sides. There has been little civil society involvement in the security sector, however. South Ossetia has a very small population (well under 100,000), and thus few active NGOs. The main focus has been on poverty reduction, economic development, and support for internally displaced persons and veterans of the conflict, though some do effective work on areas such as human rights and democracy. The OSCE supports this work as part of its 'human dimension' activities.

Conclusion

This Chapter has attempted to briefly outline some of the activities that NGOs are doing in the field of security sector governance, as well as discussing some of the social and structural factors that may affect the development of this work. Though ideas of democratic control over the armed forces and civilian oversight of and interaction with the police have a long history, even in more developed countries the crucial role that NGOs can play in improving security sector governance has only recently been recognised. It is thus not surprising that there are few NGOs in Georgia working specifically on this topic.

Yet as has been shown, there are already a number of organisations in the country whose work includes monitoring and advising on the development of the security sector. In the last fifteen years, a core of skilled intellectuals and professionals has developed that has had some success in building understanding on the nature of the post-Soviet security sector and in highlighting certain problems stemming from this. The state can now take advantage of this expertise, both through recruitment of some of these individuals, and by consultation and co-operation with NGOs, helping to boost the quality of the dialogue on reform; it is likely that the Saakashvili government, which understands civil society much better than Shevardnadze ever did, will be more prepared to work with NGOs in order to achieve its aims.

Once the promised large-scale reforms of the security sector gradually get underway, it will be important to ensure that civil society organisations are able to play the bridging and monitoring role that has strengthened security sector governance in most Western countries. From the government, this will require acknowledgement that NGO participation in security matters ultimately strengthens the security of the state, and a commitment to continue this co-operation. Realistically, however, much of the responsibility for supporting and developing civil society in Georgia will continue to fall on international donors. The number of professionals with sufficient knowledge of civilian management of the security sector is low even in government, and donors should not expect to find many skilled or experienced NGOs – though many organisations may be interested in developing these skills. A key issue therefore will be to train NGOs to raise awareness and understanding of security sector governance issues (which could potentially be done alongside government officials). Given the politically sensitive nature of security issues, donors should be careful to support only those who can be trusted to be independent and objective, rather than excessively pro- or anti-government. Efforts should also be made to ensure that this support is spread across the country, rather than being either too capital-city focused or heaping excessive resources on high-profile conflict (or potential conflict) regions, since trust in the security sector is a key issue for citizens all around Georgia.

Lastly, the international community may want to consider the possibility of expanding such activities to Abkhazia and South Ossetia. There are strong arguments to suggest that mistrust of each other's security sector impedes conflict resolution between Tbilisi and

Sukhum(i) and Tskhinval(i) respectively. The populations of both sides would have considerably more trust in reformed, democratically controlled forces. Yet as the international community wishes to avoid being perceived as acknowledging the legality of these unrecognised states, formal support to their governments for security sector reform activities would be highly problematic. It may however be possible to sponsor reform indirectly through building the capacity of civil society in these areas. If this does indeed lead to more accountable security forces, it will be a significant contribution to peace-building across the region.

Chapter 9

Power Elites in Georgia: Old and New

Zurab Chiaberashvili and Gigi Tevzadze

‘Elites’, as referred to in this Chapters, follows Pareto¹ and Mosca², who defined the condition of elitism as the exercise of state control by those individuals with personal and/or group resources disproportionate to those necessary for management of the state. The terms used to describe these resources differ, but theories have in common the fact that such societies the management of a minority over the majority/masses, even in cases of democratic systems (Schumpeter³). Other classical theories about the state and society⁴, such as Marxism (struggle of classes) and pluralism (inter-balanced sources of authority), describe various types of authority and, accordingly, different social structures.

In the late 1980s and early 1990s, newly-formed states began to emerge in the Soviet Union. New forces came to power within these states and their ‘new order’ moved in different directions. In this Chapter, we argue that due to different conditions in these new states, different social structures and state-society relations evolved and, accordingly, fulfilled different theories. The differing levels of legislative activity and the rules by which executive authority was administered both affected the eventual roles of elites. Our investigation focuses on how the state system in Georgia developed according to a theory of elites. Below we give concrete examples showing that, in Georgia, the legislation was developed according to the interests of strong elite groupings, based on the premise of permanently implanting the management of the majority by a minority.

In the newly-emerged states, no one made considered choices between pluralistic, class or elitist structure, the economic and cultural environment, political conditions, the heritage of the Soviet Union, previous and contemporary politicians, or visions success and failure: these and many other, casual, interconnected, isolated and natural factors have determined Georgia as representing, from independence, a precise illustration of the theory of elites⁵. Therefore, the factors creating an environment conducive to rule by elites are examined, and the relevant institutional design enabling this are discussed.

¹ Pareto, *The Rise and Fall of the Elites*, (New Jersey, 1968).

² Mosca. *The Ruling Class*, (New York, 1939).

³ Schumpeter, *Capitalism, Socialism and Democracy*, New York, 1942.

⁴ Keith, *Political Sociology*. (New York, 1999), pp. 32-53.

⁵ By our hypothesis, in the post-Soviet space there are countries in which the choice is made for the benefit of pluralism (Baltic countries), and also countries, in which the society is divided by possession/non possession by means of manufacture, and we deal with class/caste system (Turkmenia).

Institutional Design

The political framework within which the elites operate, as provided by Constitution and law, has been described in a preceding Chapter and need not be related here at length. Georgia's Constitution mentions all the democratic fundamentals. The political system that it establishes is a Presidential-Parliamentary one with much of the power in the hands of the President. It should be kept in mind that Georgia's first years of independence were extremely difficult, with domestic conflict, a military coup, and a Constitution written in 1995 and recently amended. Other countries of the 'post-Soviet space' had much more peaceful initial years. Elected in the first multi-party elections in Georgia, in autumn of 1990, the Supreme Soviet of the Republic of Georgia was dispersed by a Military Council which, in January 1991, took power after a civil war and exile of the first President, Zviad Gamsakhurdia.

Between 1992 and 1995, the Parliament worked in conditions affected by the Abkhazian conflict and civil war from 1992 to 1994 and had little time to organise constitutional affairs. Within the parliament, chaired by Eduard Shevardnadze, conditions of general chaos meant that individuals were more interested in strengthening their own positions than in forming and strengthening the role of Parliament and democratic governance. Shevardnadze, the Head of State, during the constitution's preparation and passage, was a charismatic figure, and the Presidency was given special rights (including a right to initiate legislation and exclusively manage executive authority), causing a bias of a state system towards a pronouncedly strong Presidential system.

Shevardnadze was a prominent member of the old Soviet *nomenklatura*. From 1972-1985, before his assignment as Minister for Foreign Affairs of the Soviet Union, he was the First Secretary of the Central Committee of the Communist Party of the Georgian Soviet Socialist Republic and the actual governor of the Republic. As the President of Georgia from 1995 until the 'Rose Revolution' he appointed Ministers of the government with the consent of the Parliament; removed them; submitted the draft of the state budget to the Parliament; halted or dismissed the local self-government representatives and/or territorial units if their activities endangered the sovereignty and territorial integrity of the country; signed and issued laws adopted by the Parliament; issued decrees and orders, on the basis of the Constitution and the law.

Because the President's rights are disproportionately large in comparison to other subjects of politics, political parties developed poorly and while Shevardnadze was in office the 'party in power', the Citizens' Union of Georgia, as the basic supporters of the-then President, grew alongside the state bureaucracy, much of it inherited from the previous regime. A characteristic sign of coalescence between the party in power and the state bureaucracy was demonstrated during the governmental crisis of 2001 with the resignation of the chairman of the Citizens' Union party Zurab Zhvania, who was Chairman of the Parliament between 1995 and 2001. Zhvania was replaced by Avtandil

Jorbenadze, the State Minister. But in this political configuration, the former communist *nomenklatura* was much stronger (especially economically) than political parties were. The *nomenklatura* filled executive authority almost entirely, partly via their representation in the legislature provided by the parliamentary faction 'Citizens' Union' aided by other deputies, and in regional and local structures.

It is possible to say that the Constitution has not determined who the main subject of policy is: political parties of the Parliament or the state bureaucracy of the government and regional and local managers. The whole system is based on an uncertain balance between the two and the President for many years was its adjuster. Such circumstances strengthened Shevardnadze's position at the expense of the country's stagnation.

Shevardnadze's Family⁶

Studies of post-Soviet states and societies frequently use the terms 'clans' and 'families' when Georgia is considered. Although this characteristic is certainly not unique to Georgia, it is prominent and notable. One such recent study used the example of Shevardnadze's own family as a large and typical clan that has dominated major business and political posts. Difficult times have fallen upon Shevardnadze and his family. However, the light that is being shed upon its structure and inner workings reveal the emergence and function of Georgia's most powerful family or clan, a political and sociological paradigm.

'Patron-client' relations,' it has been noted, 'make up informal networks that are the result and vehicle for vertical corruption, i.e. corruption *within* the branches of the state encompassing various administrative levels. Personal loyalties are the basis for such networks, illustrated, for example, by the preference given to friends and family over competent candidates when allocating professional positions. The general tendency to ascribe power to persons rather than office holders has helped to keep a limited number of families/clans in key positions per branch of state (ministry) and region'. The objective of the family or clan is profit, the establishment of political networks cutting across state agencies means eliminating investigations and enabling co-ordination among family and clan activities.

The dominant position of the family members and close relatives of Shevardnadze in the shadow economy was well known before the 'Rose Revolution' and more comes to light after it. In one high-profile case, Sulkhan Molashvili, a Chief Auditor in the Shevardnadze government, was held in detention, and prosecutors say that he profited from corruption and significantly assisted corrupt practices for the Shevardnadze family; critics say his treatment is part of an old feud with President Saakashvili, who served as Justice Minister under Shevardnadze for a time.

Within the family group, the several subgroups developed. The

⁶ In this part we base on articles published in the newspaper *New Version* (releases N8, N37 and N38, by Givi Targamadze, a member of anticorruption council created by the President of Georgia.

father-in-law Shevardnadze's son Paata, Guram Akhvlediani, was the Chairman of the Chamber of Commerce and the leader of the most influential of the subgroups – the 'clan Akhvlediani'. This subgroup developed business interests in mineral oil and aircraft. It also controlled the port of Poti. According to some, the law on the Chamber of Commerce passed by Parliament in 2002 was created specifically for the clan Akhvlediani. In general, this clan gave its activities a legitimate guise and consequently established its business on the decrees of the President.

The leading position in telecommunications business was occupied by Shevardnadze's son-in-law, Gia Jokhtaberidze, leader of 'clan Jokhtaberidze'. This clan had interests in state property, in industrial giants such as Rustavi 'Nitrogen' and Zestafoni factory of non-ferrous metallurgy. Jokhtaberidze obtained contracts for the benefit of the Magti telecommunications company, unsurprising as the interests of the state were at that time "protected" by the Deputy Minister of Transport and Telecommunications Gia Kakuberi – a witness at Jokhtaberidze's wedding.

The third group is represented by Shevardnadze's nephew, Nugzar Shevardnadze. In the first half of 1990s, this group was the strongest clan, but its position weakened as the 'clan Akhvlediani' increased its control of the mineral oil business. The 'clan Nugzar Shevardnadze' had a principal interest in the import of consumer goods. His relatives and friendly links testify to his influence: Kakha Targamadze, Minister of Internal Affairs of Georgia in 1995-2001, was his friend and a witness at his wedding. His son-in-law Merab Tkeshelashvili (whose father Melor Tkeshelashvili remains an old representative of *nomenklatura* elite of Rustavi and a member of parliament) became mayor of Rustavi city, and this naturally gave Nugzar an opportunity to augment his interest in the large state enterprises existing in Rustavi.

In the sphere of transport, the Shevardnadze's nephew, Avto Baramashvili, controlled ecological inspection on motor transport. His brother, Temur Baramashvili, held a high rank in the traffic police. Especially close relations between the Shevardnadze family and the Chairman of Railway Department, Akaki Chkhaidze and the Chairman of the Road Fund Boris Salaridze assisted their interests.

Members of the Shevardnadze family dominated the state's few 'big' businesses. As to the private sector and, especially, local manufacturing, businessmen of a non-*nomenklatura* origin appear, although their entry in politics has incrementally taken place. Levan Gachechiladze, the leading shareholder of the leader of manufacture of wine in Georgia, GWS, and Gogi Topadze, the leading shareholder of beer manufacturer is company "Kazbegi" won seats in parliament in 1999. Gachechiladze is chairman of the New Right party, and Topadze is chairman of the political association "Industry Will Save Georgia" or the Industrialists—the sole political group to surmount the 7 per cent electoral barrier in the Parliamentary elections of March 2004.

The Banking Sector

The interests of the Georgian economic elite, to a great extent, are concentrated in the banking sector. For younger members of the former *nomenklatura*, the former members of the Komsomol), which provided economic support for the authority of Shevardnadze, joining the banking sector was a main goal. The investigations of journalists Lasha Tugushi and Eliso Chapidze have provided insight into the banking elite⁷. They uncovered that on January 13th 1994, a 'banking revolution' took place in Georgia. On that day, in five leading state banks, new managers were appointed: in the 'Industry Bank', Tamaz Maglakelidze, who from March to September had worked as the assistant to the then President of the National Bank Demur Dvalishvili⁸; in the 'Savings Bank', Ivane Chkhartishvili; in 'Eximbank' Amiran Khetsuriani and Zaza Sioridze, the second cousin of Shevardnadze, at 'Agro Industrial Bank' Andro Devdariani; and Vladimir Pateishvili established the 'Georgia Bank'.

These five banks controlled 80 per cent of national bank holdings until a presidential Decree was issued whereby Industry Bank, Eximbank and the New Georgian Bank (the former Saving Bank) were combined as the United Georgian Bank. In capital terms, the share of the state totalled fifty six per cent: however, the authorized capital was illegally increased and the state was left with only a forty three per cent stake, because the shares the management passed to private persons.

The friendship between Chkhartishvili, Sioridze and Maglakelidze began in the 1980s in a Komsomol cell at the engineering economic faculty of Tbilisi State University, making this another *nomenklatura* network which continued and functioned well in the Shevardnadze era. Between 1998 and 2001, Ivane Chkhartishvili was Georgia's Minister of Economics. Tamaz Maglakelidze, close to the Shevardnadze family, and Deputy Secretary of Committee of Komsomol TGU in 1989-90, was Chairman of the Customs Department (1998-2000) and Chairman of Tax Inspection (1998). Zaza Sioridze was been Chairman of the Financial Budgetary Parliamentary Committee since 1995. His brother-in-law, Temur Giorgadze, was the Deputy Chief of Tax Service, and brother, Merab, Head of the Department of the Internal Control of Tax Service.

In the banking sector, TBC Bank occupied the leading place, the president of which Mamuka Kharadze, thought to be one the original leaders of the social movement 'New', from which political party 'New Rights' took its name. TBC group received from the state the exclusive right of bottling Borjomi mineral water, one of Georgia's largest

⁷ *Resonance*, August 11 and 17, 2001.

⁸ On 9 September 1994 the former President of the National Bank Demur Dvalishvili committed suicide while being interrogated in Ministry of Internal Affairs building. The interrogation was conducted by investigator Kakha Bakuradze who was promoted to Deputy Minister of Internal Affairs in 2001. The investigation itself was included into the competence of the Central Administrative Board of Struggle Against the Organized Crime, the Head of which was Kakha Targamadze. In 1981-90-s Dvalishvili was the Minister of Finance of the Georgian SSR, and since November 24, 1992 up to October 11, 1993 - the President of National Bank. "The credit form" of political bribery is connected to his name, which was widely applied in Georgia - in 1993-94. During this period 99 % of credits of the National Bank were given on 15-20 firms, which had only a seal and a name.

exports.

There also are foreign investors and since 2000-2001, the appearance of two new players reflected changes in the disposition of forces among the economic elite of Georgia. They are individuals who in the 1990s gathered significant wealth in Russia. Badri Patarkatsishvili, for a number of years, was Boris Berezovsky's right hand man and remains wanted by the law-enforcement bodies of Russia. There are also different opinions expressed about the political sympathies of Patarkatsishvili. Recently, his TV Company "Imedi" began broadcasting. Bidzina Ivanishvili operates primarily in the area of the business of television. Ivanishvili's "Channel 9" has been on air since 1999. Unlike the connection between Patarkatsishvili and the political elite, those of Ivanishvili are unknown.

Adjara was outside central control until May 2004. With a core population being ethnic Georgians, the authorities did not openly express separatist aspirations. Yet, at the same time, under the personal leadership Aslan Abashidze, the region resisted the centre on economic and political questions. Budgetary obligations were unsettled between the central Government and Adjara; and the Government refused the intentions of Abashidze to transform Batumi (capital of Adjara) into a free economic zone. As for nepotism and the character of the local elite, there were ample indicators of Abashidze's personal network. Abashidze was Chairman of the Supreme Soviet of Adjara; his son Giorgi was mayor of Batumi; his nephew Giorgi Tsintskaladze was Chairman of the Council of Ministers of Adjara; his cousin Antaz Mikava was the second Deputy of the Council of Ministers of Adjara; his brother in law Iliia Tsulukidze was Minister of Security of Adjara; his cousin Minister of Internal Affairs; his son in law Temur Komakhidze Minister of Culture of Adjara; another son in law Nodar Tamazishvili Minister of Communications; another cousin Giorgi Tsintskiladze was the Minister of Health; and his wife's nephew Guram Gogitidze was Head of Tax Service. Half of the members of the local parliament (40 persons) are A. Abashidze's close relatives.

The Economic Elite

The economic elite are close to the political establishment. Article 53 of the constitution forbids economic activities by the members of parliament, and Article 80 for the government. At the time of writing, there was no exact data on the widespread economic activities of government members or the "patronage" of parliamentarians by businesses, but more facts are revealed after the Rose Revolution. In 1998, the Parliament of Georgia passed a law "On the Incompatibility of Interests in Public Service and Corruption". This law obliged officials to provide information about their property and financial position.

Despite this, there were often cases where government officials of a high rank, working on a low salary over many years, accumulated property valued at hundred of thousands or even millions of Laries. As previously mentioned, in the first half of 1990s, the former communist *nomenklatura* directly, or by means of relatives and clients, maintained a

privileged economic position and economic influence by using material resources made available by the state. The economic elite represented a narrow circle of people. However, some groups in particular influenced the economy and, accordingly, the policy of the country.

Together with its economic and political value, the International Oil Corporation of Georgia retained a significant role in supervising the elite of the country. This was determined by that fact that the political stability and economic welfare of Georgia, to a great extent, remains dependent on the Trans-Caucasus oil pipeline.

Positions of Influence: Regions

Central Government control of South Ossetia and Abkhazia was lost as a result of ethnic conflicts in these regions and a significant part of the local Georgian population was exiled. These regions are supervised by the local 'ethnocracy', the basic guarantor of which is the Russian peace-making contingent. Negotiations with Tbilisi remain deadlocked. The local power networks do not differ substantially from those in Tbilisi; they are family-connected and friend-centred networks. In Abkhazia and South Ossetia, Russian business holds a stronger position than the rest of Georgia. In these regions, the basic means of payment is the Russian rouble, and the main investors are the private companies or state departments of Russia. In both enclaves, smuggling plays an important role, which is indicative of the non-coordination of relations with the central authority of Georgia and uncertain legal status of these regions.

Like the Georgian population expelled from South Ossetia, refugees from Abkhazia have their government in exile, the so-called 'legitimate government of Abkhazia', structured as it was before the outbreak of war. Despite the absence of the territory, this structure keeps the same ministries, police and even security services which are accountable to the central bodies. The leader of the government of Abkhazia in exile, Tamaz Nadareishvili, is the permanent Chairman of the Supreme Soviet of Abkhazia. Before the Abkhazian war of 1992-1993, Nadareishvili was the Deputy Chairman of a Supreme Soviet of Abkhazia and he took active part in the conflict. According to a number of sources, Nadareishvili belongs to a narrow circle of affluent people from the region.

Adjara is a particular case. Since the independence of Georgia from the Soviet Union, Aslan Abashidze has been able to run Adjara as his personal fiefdom (which many people call 'Aslandia') and, because of the region's border with Turkey and the presence of a Russian military base in Batumi, has been able to cultivate good relations with both countries. Hence it has not been surprising to see that Abashidze's 'Revival' party was able to obtain up to 98 per cent of the votes in Adjara. Abashidze has extended his political party nation-wide and it is represented in the central Parliament. It claimed to be independent but somewhat surreptitiously Abashidze supported Shevardnadze and, in return, the central government gave him a free hand in Adjara. When Shevardnadze fell from power, so did Abashidze, a few months later.

Positions of Influence: the Governors

Article 2 of the Constitution states that: The internal territorial arrangement of Georgia is determined by the Constitution on the basis of the principle of division of power after the full restoration of the jurisdiction of Georgia over the whole territory of the country....The citizens of Georgia regulate matters of local importance through local self-government as long as it does not encroach upon national sovereignty. The procedure for the creation of self-governing bodies and their powers and relationship with state bodies, is determined by organic law.

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This article was used as a device by the President to appoint twelve regional governors, whose responsibilities are minimal but whose rights extensive. Therewith, the internal policy of Georgia, the most critical role belongs to the Service of Regional Management of the Office of the President which coordinates the twelve regional Governors who, until 2002, were appointed by the President, and who have since been elected by such a procedure that easily opens the way for former Governors to gain legitimacy⁹.

Without parliamentary approval, Shevardnadze appointed provincial officials such as prefects and mayors. The mayors of two key cities, Tbilisi and Poti, were directly appointed. Furthermore, the system of Governors, or presidential representatives, which *de jure* was not legally sanctioned, and *gamgebelis*, appointed at a local or rayon level, allowed for an overpowering centralized power. In the end, the *rayon gamgebelis* are responsible to two political masters, the Governors and the policy and the Service of Regional Management of the Office of the President. The intricate system is operated by funding: the distribution of centrally collected taxes and municipal budgets often depended on the personal relations between the presidentially appointed *gamgebeli* at rayon level and a mayor or *gamgebeli* at the municipal level. Given the control of the entire system of state administration, the President could form his own administrative apparatus, which had the potential to act as a shadow government beyond the control of any other branch, wherein the Governors, were an appointed elite.

From 1994 until the spring of 2002, Badri Khatidze supervised the service of regional management. From 1981-91, Khatidze was

⁹ All regional governors were running for Council of any small village, have passed in it, have been submitted by the council of representatives of the given village in regional council (he is not elected directly), and regional council again approves them as head of regional executive authority - the governor (Gamgebeli).

deputy head of an organizational department of the central committee of the Komsomol and through this post supervised regions. Accused of corruption, however, Khatidze became a parliamentary deputy. At present, the former governor of Shida Kartli, Irakli Bochoridze supervised the regional management service.

The ties of some representatives of regional elites with other groups were indicative of the clan networks operating in Georgia. Zezva Gugunishvili, a deputy in Tbilisi (Chugureti) and the Chairman of the Parliamentary Committee of Public Health Services and Social Questions, is the brother in law of Vano Zodelava, the mayor of Tbilisi. Mediko Mezvrishvili, the governor of the Telavi region, was a witness to Nanuli Shevardnadze at her wedding, and her nephew Kakha Datishvili was the Chief Police of Tax in the Kakheti region. Significantly, the majority of regional governors during the communist period worked on *nomenklatura* posts in those areas in which they currently operate.

Positions of Influence - The State Administration

The powers of the Presidency according to the Constitution outweigh the power of the Parliament, but the President can use his powers in a political framework—that is, exert it to have the legislators accede to his policy—or construct submissive political bodies, or elites. Shevardnadze manoeuvred in the legislature to arrange and deploy political support groups; however, his objectives were holding onto power, not necessarily consolidating backing for a definite policy. However, outside the Parliament and without parliamentary approval, as the Head of State Shevardnadze could and did place supporters in positions of influence. The President selects the heads of the power ministries and appoints all senior military leaders. The President chooses provincial officials such as prefects and mayors. Additional power came from his control of the entire system of state administration. He could form his own administrative apparatus, which had the ability to act as a shadow government beyond the control of any other branch. Key agencies chaired by Shevardnadze since 1993 were the Council for National Security and Defense, the Emergency Economic Council, and the Scientific and Technical Commission, which advised on military and industrial questions.

The state administration and bureaucracy plays the largest role in the managing the country, the basic core of which, throughout the period when Shevardnadze was in power, remained the former Communist *nomenklatura*. In Georgia's We use the designations administration and bureaucracy, because this particular hierarchy has higher and lower levels, as are used in informal Western political writings. However, the notion of civil service, of senior civil servants dutifully working for their democratically chosen political masters, helped by more junior civil servants—trained, objective, dutiful—is hardly appropriate to Georgia's circumstances. The *nomenklatura* lost the reins of government as a consequence of the national-democratic liberation movement of 1988-89 and the following period taken in the civil war of 1990-91, when the President Zviad Gamsakhurdia was expelled from the country and the

military council called in Eduard Shevardnadze from Moscow as head of the country¹⁰. However, it was not removed from the state administration and has ensconced itself in the state administration.

From 1992 to 95, when national attention and political activity was directed entirely with ethnic and civil conflicts in Abkhazia and Western Georgia, the state bureaucracy carried out two large-scale programmes --introduction of the national coupon and ‘voucherisation’ of former state property and strengthening its dominant economic situation acquired during the Communist era. Like other Soviet republics, documentation of Georgian Communist Party activity between 1989 and 1991 detailing liquidation of local Communist Party and Komsomol property, disappeared. Journalistic investigation proved that property settled in the pockets of influential members of the *nomenklatura*. During the Presidency of Zviad Gamsakhurdia, the Cabinet of the Ministers created, on August 29 1991, a commission investigate the Communist Party’s liquidation. Bakur Gulua was made chairman. Gulua was almost the only one to keep a place in the state machinery after the overthrow of the government of Gamsakhurdia. The results of the commission’s findings remain unknown to Georgian society and when Shevardnadze was in office the question was conveniently forgotten.

From 1995 onwards, the state administration has moved away from society. Although it has its internal disagreements and rivalries, it has become one big clan. The small size of the country and lack of resources made its creation and extent of control easier. The clannish character of the state administration is revealed by many examples, but two can be mentioned here. The brother of the Minister of Transport, Connections and Communications Merab Adeishvili, Gia Adeishvili, became the Deputy Minister of Fuel and Energy; and the brother of former Minister of Economics, Manufacturing and Trade, Ivan Chkhartishvili, Shalva Chkhartishvili, the Deputy Head of Inspection for Large Tax-Payers. State administration and family interests interlock in the various spheres of the economy.

The National Security Council

Article 99 of the Constitution states that the Council of National Security is created for military development and organization of the defence of the country, which is headed by the President. The composition, authority and procedures of the Council of National Security are determined by legislation. However, the Constitution neither determines the Council’s position in the structures of the government nor mechanisms for its control by the Parliament. This fact has transformed it into a separate object in politics. The Council’s first secretary, Nugzar Sajaia (who committed suicide in his cabinet in February 2002) had the reputation of a “grey cardinal”. Sajaia transformed the Council into a

¹⁰ However, it is impossible to say that the authority of times of Gamsakhurdia was free from representatives of the Soviet *nomenklatura*: decisions accepted at that time (the decision about privatizations of the land, outflow of money from Georgia), obviously specified presence in the government of the Soviet relicts.

place that produced a new generation of top state officials: Sul Khan Papashvili became Head of the Service of Government Protection, Valery Khaburdzania became Minister of Security, Koba Narchemashvili became Minister of Internal Affairs and, Sul Khan Molashvili became Chairman of the Chamber of Control (i.e., the main state audit agency).

As the interests of ministers concerned with economic matters gravitated towards the office of the State Minister, the heads of the power ministries gravitated towards the Security Council. Nugzar Sajaia managed to heavily influence the former Minister of Internal Affairs Kakha Targamadze, and never engaged in open conflict with opposition political forces or the reformers in the Citizens' Union.

Sajaia was succeeded by Japaridze, the former Georgian Ambassador to the United States. After Japaridze assumed office, the United States offered to assist with developing a National Security Council system, which would provide strategic advice, improve decision-making, and coordinate national security actions. It was to become a viable institution prior to the next presidential elections in 2005. It would make strategic assessments and plan policy. Observers inside and outside Georgia do not question the need for reform. Georgia's NSC is too large to be an effective management instrument today. Moreover, the country uses an overly broad definition of "national security", one that includes not only external relations and domestic security but also issues such as economic policy and the environment.

Although security was at the top of the Georgian political agenda, the Council did little to develop a suitable one. This bears importance for reform of the military and security structures in addition to showing political priorities for domestic and international actors. Russia is not willing to retreat from the South Caucasus as a sphere of influence and the many frozen conflicts in the region, illustrate the urgency of adopting a national security concept.

The Political Elite: the Parties

The parliamentary system established by the Constitution has not provided for an easy development of Georgia's political parties. They have established a position as forces in political affairs. The life of Georgia's parliament and elections has been dominated by blocs and alliances of political parties, of politicians who are not members of any political party, and even members of some political party purportedly being in opposition—but tacitly assisting the ruling group—or as groups coalescing to support the administration. Led by ambitious political personalities, they have emerged, divided, and disintegrated, according to the popularity and political fortunes of their leadership. Some parties have distinct political and economic views, although they do not dominate the political arena. There also is the factor of the media. Georgian commentators and external observers would agree that Georgia has a free press. Although by some the media has been perceived as biased, in general, it has managed to present a full picture

of the issues put forward by political parties, as is related in considerable detail in the respective Chapter on media. The media have been a vehicle for parties moving toward power, conspicuously so in 2003 and 2004. In this regard, Georgia's political experience does not greatly differ from the other independent countries emerging from the former Soviet Union. Their parliamentary life has witnessed the emergence of parties, some with a relatively short life, tactical electoral alliances, party splits and membership shifts.

The elections of 2004, to all appearances, swept many of these formations from the political board. The Presidential elections of January gave Saakashvili an overwhelming victory with 96 per cent of the vote; the parliamentary elections in March gave the allied National Movement and Democrats 67 per cent of the vote. Only one party, the Industrialists got across the 7 per cent vote threshold and into the Parliament. However, of the Parliament's members, 150 members of 235 were elected in March on the proportional lists, where the vote count in the 2003 elections was considered fraudulent by the Supreme Court. There also are 75 single mandate constituencies where the results were not annulled and 10 seats given to representatives from (Abkhazia). Thus Saakashvili and his supporters did not overwhelmingly remove potential opposition from political groups and individual deputies. Given Georgia's parliamentary history, large electoral alliances like Saakashvili's have a record of fragmenting and crumbling.

We will give an overview of Georgia's parliamentary and party life. It cannot be traced in full detail, but a summary of the political alliances and alignments of 2000 can suffice, although of course shifts and realignments took place until 2003. The President's supporters, the largest bloc, the Citizen's Union of Georgia or CUG, was then led by the Chairman of Parliament, Zurab Zhvania, later Shevardnadze's rival. It was never a broad-based organisation nor was it defined by a political ideology. It represented a post-Soviet continuum of the Communist Party and opened the way for interested persons to come to power at central or local levels. Only one thing was required from them--loyalty to Shevardnadze. The Citizens' Union was ideologically eclectic and, by its structure, loosely articulated. It has been described as a nomenklatura-based party, among other things, trying to defend the interests of big business." (Nonetheless, the Union managed to get observer status with the Socialist International.)

The opposition was gathered in another bloc, the All-Georgian Union for Revival. The Union contained a similarly-named Revival party regionally based in Adjara; the Union of Georgian Traditionalists, who aimed at the restoration of the Georgian monarchy; the Socialist Party of Georgia; the former Communist Party leader Patiashvili; and the XXI Century, supporters of former President Gamsakhurdia. The bloc promised to eliminate corruption and to restore public services. Actually the Revival party, although claiming to be in the opposition, often collaborated with Shevardnadze. Its leader Abashidze was thought to have struck a surreptitious deal whereby Shevardnadze would not try to reassert central control over Adjara in return for Revival's support in the

Parliament. These suspicions were amply confirmed in the political in 2003 and 2004, when Abashidze proved to be a determined ally to President Shevardnadze.

By 2003, Shevardnadze's Union had crumbled and had been replaced by New Georgia, with a programme of independence, Georgia's integration into Europe, closer relations with the United States and NATO, the liberalisation of the economy, and increases in salaries. Five major parties (or groups) opposed New Georgia in the Parliamentary elections. There was the National Movement, led by Saakashvili, a coalition of three separate parties; the United Democrats, a moderate opposition party led by Burdjanadze (with Zhvania in the background); a left Labour party; a somewhat conservative New Rights party; and the Industrialists. There also was a Revival party, led by Abashidze—a separate party but actually in complicity with Shevardnadze.

The formation of the 'National Movement for Salvation of Georgia' came to the fore in 2001 after its future leader Mikhail Saakashvili left both his post as Minister of Justice and the government of the President Shevardnadze. In the local elections of 2002 in Tbilisi, the Movement obtained second place (with twenty four per cent of the vote) and was only a few hundred votes behind the Labour Party¹¹. Before that, the movement had a faction in the Parliament of 1999, working with reformers from the CUG.

The 'United Democrats' were another product of the disintegration of the Citizens Union when Zurab Zhvania departed from it taking along with him much of its powerful infrastructure. In the Parliament, the party had a faction consisting of twenty two people, in strong opposition to the government. It ran in local elections of 2002 as the Christian-Conservative Party and, in Tbilisi, garnered eight per cent of the vote. The non-*nomenklatura* intelligentsia who were disappointed in Shevardnadze sympathised with the United Democrats.

'The New Rights' similarly appeared on the stage once the disintegration of the Citizens' Union began in 2001. Its leaders, young, influential businessmen Levan Gachechiladze and David Gamkrelidze entered the Parliament on Unions' list in 1999, invited by Zhvania and Saakashvili, though Gachechiladze and Gamkrelidze left the Party because of their subsequent opposition to Zhvania and Saakashvili. With eighteen representatives, New Rights supported Shevardnadze in the Parliament as the Citizens' Union disintegrated and Zhvania left the Party. In local elections of 2002 in Tbilisi New Rights achieved only third place but in city and rural Councils, it received a majority of all votes cast. The party turned against Shevardnadze and gained the image of an opposition party¹². The well funded organisation, it began an independent drive for voters in January 2003.

¹¹ As against labourites, the pre-election slogan of movement is "Tbilisi without Shevardnadze" - was an appeal directed particularly against the President. On February 12, 2003 at the expanded session of the government, Saakashvili has directly declared to Shevardnadze: "I thought, that we (reformers) together with you could get rid of the corrupted officials, who sit in this hall. Now the only way for this purpose is that you should leave and together with you all these officials".

¹² Not specified lists of voters - one of the basic preconditions of falsification of elections.

The 'Labour Party of Georgia', a socialist party, emerged as a national party in the elections of 2003 and 2004. Previously it had won in local elections. In the parliamentary elections of 1999, the Labour Party lacked only several hundred votes to overcome a seven per cent barrier and get into the national Parliament. It has sharply criticised the authorities for failing to solve social and economic problems. The Party 'Industry will Save Georgia' has a basic programme to protect businesses hurt by the government and lobby groups. Created before the parliamentary elections of 1999 and against a background of criticism of the government, the Party subsequently moderated its criticism of and gradually turned into a partner of the authorities.

If we look for origins of the rise and fall of parties, there is more than one reason. Certainly, on the one hand personal political ambition for leaders like Zhvania, and Saakashvili—the latter, for example, Chairman of the City Council of Tbilisi, November 2002, Minister of Justice in 2000-2001, Chairman of the Constitutional Judicial and Legal Parliamentary Committee and leader of the Parliamentary faction of the Citizens' Union 1995-2000—played a role. They were named 'young reformers'¹³. On the other hand, they easily cohabited with the old communist *nomenklatura*—who had positions of influence as members of the government, as regional leaders, and as intelligentsia, and were members of a new political organisation, while preserving their past relationships. Nonetheless, one of the reasons for the crumbling of the Citizens' Union was that people of various foreign policy orientations were present in it. There were pro-western young reformers as well as anti-westerners—which did not automatically mean Russophiles or reactionaries. They were of various ages, careers and mentalities. But probably principal reason was an attempt of young reformers to transform the Citizens' Union from being the party that won elections and then dutifully supported the executive into the party of power itself, in order to obtain control of the executive authority via the parliamentary majority. Moreover, the Labour Party, the Industrialists, and the New Right do have discernible political and economic orientations.

In the November 2003 elections, six parties or blocs crossed the 7 per cent threshold, the official count giving the first place to Shevardnadze's New Georgia, and another more reliable count giving the first place to the National Movement and the Burdjanadze Democrats. In addition to the two above, the winners were Labour; the Democrats, led by Burdjanadze; the Union for Democratic Revival; and New Rights. The Rose Revolution, the events of November 2003 was followed by presidential and parliamentary elections of January and March which in effect confirmed and consolidated the revolution. In the March elections, the joint National Movement and Democrats won easily, with only the Industrialists (or Industry will Save Georgia, to give them their proper name), getting past the barrier; in the preceding

¹³ This name is connected to the reforms started in various sectors of the State system of Georgia, from which the most significant was reform of judicial authority. One of the reasons of the conflict between team Zhvania-Saakashvili and *nomenklatura* of Shevardnadze was also that after reform of judicial system did not follow the reform of Police and the Office of Public Prosecutor (see power structures).

elections they did not get in, but were in the seventh place. However, of the 235 seats in the parliament only 150 were contested—only the results in electoral districts where deputies are elected by a majority and where results were deemed to be invalid—and the National Movement-Democrats got 135 of the 150 mandates, with 15 going to the Industrialists. In all, 16 parties or electoral blocs participated in the elections and 14 were swept from the board. Nonetheless, there is a considerable number of deputies who were not led into the Parliament by Saakashvili—and large blocs, like the one he and Burdjanadze led—have a record of crumbling in Georgian politics.

Conclusion

Since Georgia became an independent country, there have been political collapses and turbulence: with the disintegration of the Soviet Union, with a military coup which ended the Presidency of Zviad Gamsakhurdia, with the return to power of Shevardnadze, his ouster in the Rose Revolution, and finally, elections that brought the opposition into offices where policy is made.

The tides of politics have not decisively removed old elites and brought new ones to power and prominence. Shevardnadze was Georgia's most visible *nomenclature* member during the Soviet rule and, as has been related, during the first years of independence, the new economic elite, to a great extent, concentrated in the banking sector, often came from the old *nomenklatura*, the former members of the Komsomol. What has been said Ukraine holds true for Georgia, "Under the post-Communist banners of 'capitalism' and 'market reform', these [*nomenklatura*] networks have transformed bureaucratic into financial power, privatising not only the economy, but the state itself."¹⁴ But there are differences. In Georgia, as in the other post-Soviet societies, new forces have come to power and the 'new order' moved in different directions. The shape of the elites and their accommodation to the circumstances after the events of 2003 and 2004 is not yet entirely discernible.

In Georgia, the legislation was developed according to the interests of strong elite groupings, as the summary description of political alliances and alignments in the Parliament illustrates. The particular interests or compositions of the specific parties are determined by Georgia's conditions. Such conglomerates are not organizations built around certain policies and principles. Instead they are what political scientists call brokerage parties, political entities without fixed principles or policies whose leaders collect support from otherwise incompatible constituencies. Found in many of the post-socialist states, they are not unique to them; it has been noted that India's Congress Party has functioned as a brokerage party. As countries modernize, they tend to leave brokerage parties behind them. The process might be under way in Georgia.

¹⁴ James Sherr, Presentation Ukraine's Euro-Atlantic Course, DUPI Seminar, Copenhagen, October 19, 2002.

A report by observers from the Organization for Security and Co-operation in Europe commended the conduct of the parliamentary elections. "The March 2004 repeat parliamentary election in Georgia demonstrated commendable progress in relation to previous elections. The Georgian authorities have seized the opportunity, since the January presidential election, to further bring Georgia's election process in closer alignment with European standards for democratic elections, including OSCE commitments and Council of Europe standards," the report said. But the report concluded with a note of caution. "However, in the wake of the events of November 2003, the political life of Georgia, as reflected in the election process, is not yet fully normalized" it said. "The consolidation of the democratic election process will only be fully tested in a more competitive environment, once a genuine level of political pluralism is re-established".

Chapter 10

The Role of the Media in Georgia's Transition to Democracy

Marina Kokashvili

Introduction

According to law, Georgia's media is free. Article 24 of the Constitution states that "the mass media is free; censorship is impermissible" and that:

citizens of the Republic of Georgia have the right to express, distribute, and defend their opinions via any media, and to receive information on questions of social and state life ... Censorship of the press and other media are not permitted.

The media is regulated by the 'Law on the Press and Other Mass Media', which was first enacted in 1991 and amended several times since then. Article 4 of the law stipulates that

the mass media is forbidden to disclose state secrets; to call for the overthrow or change of the existing state and social system; to propagate war, cruelty, racial, national, or religious intolerance; to publish information that could contribute to the committing of crimes; to interfere in the private lives of citizens; or to infringe on their honour and dignity".

In Georgia, as in other former socialist countries, there has been the letter of the law and there has been reality: this Chapter will explore both. In doing so we have to bear in mind the concept of a democratic media. The notion of a free media and a democratic media have been linked, but they have not been the same. Presumably, in well-established democracies the media have been conscious of obligations toward society and have carried them out in an objective, professional manner. We say 'presumably' because in Western states much of the media has been prone to inform the public about interesting scandals than serious economic or political developments. Although there has been a sector called the 'serious media', politicians and policy makers would not

immediately agree that this area of journalism has always been objective, restrained, and even handed.

Nonetheless, as to the democratic functions that the media have carried out, there have been ideal goals. Most importantly, journalists should provide objective and reliable information to society about what has happened in the domestic and international arenas. They should also hold policy makers and public figures accountable for their actions in the public realm; provide citizens with information about political candidates and events; be vigilant against corruption practices and tendencies; and open communication channels and organise a dialogue among the various elements of society concerning everyday problems.

There is no doubt that Georgia's mass media have had influence in society. With good reason, it has been characterized as an emerging "fourth power" since the country's independence. For the last twelve years, Georgian authorities have not escaped crises due to this "fourth power". As the country's independent media have participated, stage by stage, in the democracy-building of the country, the media representatives themselves have been shaped, influenced, and circumscribed in and by this process. Today, the "fourth power" survived inflation, deflation and deliberate diversions; it has had its favourites and those who anxiously have waited for disclosures on what has taken place in the arena of politics.

Adjusting to Freedom

Georgia's media was profoundly changed and disoriented by the political, economic, and ideological collapse of the Soviet Union, as was the media in every other former Soviet Republic. There were great similarities in how Georgia's media developed in a newly independent state with what took place in other ones. There also have been differences. Georgia, Moldova, and Estonia have had different histories; and also had to overcome different problems. Sometimes, by chance, they were guided by policy makers with their individual and particular approach to problems, Shevardnadze probably being a prominent example. However, the media in the countries called transition states were placed in similar circumstances. If measurements and evaluations were applied to Georgia, they would be drawn from the recent Central and East European experience.

When the once-united and centrally-governed Soviet Union fell apart, so did the information space, control mechanisms, and government financing, common to all its former republics. On the one hand, the mass media became free from the Kremlin dogmas and orders from the top. On the other hand, state support - organizational and material - collapsed as immediately and visibly as state control. Some state broadcasting continued but for the most part Georgia's journalists, in newspapers, on the radio and on TV, were able to write freely and say what they wanted. Just as importantly, they were given the possibility to carry out journalistic investigations. This was novel to them and required not only some experience but considerable psychological reorientation as well. The media could do what it had not been empowered to do

before - uncover and condemn the mighty of this world, shady politicians and businessmen engaged in corruption, financial frauds and links with criminals.

Georgia's new political setting enabled journalists, on the one hand, to penetrate in once forbidden spheres and publish the most courageous materials. On the other hand, it became possible to launch attacks with impunity on prominent persons and to condemn them on the pages of newspapers or in broadcasts. Information on plunder of the state property on a large scale was made public, including concrete names, but, as will be related, legal proceedings by the accused parties, who proclaimed their innocence, were seldom initiated the next morning, or the next week, or even the next month. Georgia's independent media outlets were quite aggressive in criticizing the government and journalists vouchsafed few taboos. But journalists usually did not draw a clear line among reporting, analysis, and opinion.

After the collapse of the Soviet Union, journalists became especially aggressive in relation to the Ministry of Internal Affairs. Georgia's police committed many transgressions against the law and not the least against individual members of the media. The Ministry of Internal Affairs might not have directed such violations, but all too often it managed to turn a blind eye toward the perpetrators. The police had much to answer for and examples will be given in this Chapter. But there has been a perceptible tendency of us-versus-them when it comes to the media and the police. During the last few years, the situation has not greatly changed, with the journalists on one side, and the police on the other, and the journalists taking their case to the public.

The independent mass media have become aware of the well reasoned claims about the enforcement bodies of Georgia. Power structures have not been used to any criticism during the last 70 years. They have tried to respond to representatives of the mass media with physical violence and threats. During the last five years, employees of the Ministry of Internal Affairs have abused more than ten journalists. Policemen have also destroyed the equipment of journalists, cameras, TV cameras, and even broadcast facilities.

The Law

The freedom of the press in Georgia has been guaranteed by the Constitutional articles cited in the introduction of this Chapter and by a other laws. A "Law on Press and Other Means of Mass Media" was accepted in 1991, and amended twice, in 1994 and 1997. A conference on media, convoked in Tbilisi in 2004 on legal provisions governing the media, reviewed the legal situation of the media. "The legislative basis in general has provided for transparency and a competitive environment, although in practice legal requirements have not always been fulfilled", one participant concluded. For example, the draft law on the Freedom of Press was prepared by leading human-rights nongovernmental organizations (NGOs) in Georgia and passed in just one parliamentary sitting in 2002. The draft conformed to the Constitution and to

international standards. However, it was not implemented because of a lack of political will.

The 1999 Law on the Post and Communications transferred the regulation of telecommunications licensing to the National Regulatory Commission for Communication (NRCC), an autonomous licensing commission created in May 2000. In the area of security and defence reform, a Law on State Secrets, adopted by the Parliament in September 1996, provided a list of state secrets developed by the National Security Council. The Law encompassed a large area, resembling Soviet practices, and could be used as a device to conceal information from the media. Public servants who leaked state secrets—and the journalists who disseminated them—could be legally held responsible. In practice, however, the government was reluctant to use these provisions against the media.

In June 2003, the Parliament added amendments to the Criminal Code during the first reading that instituted more severe penalties for libel. More importantly, the legal category of “insult” was also introduced, which effectively moved defamation cases from civil to criminal law. Most public officials chose to pay little heed to negative media coverage even when it alleges criminal activity. Occasionally, they have used defamation of character charges rather than accusations of libel responding to media criticism. In cases of libel, the burden of proof stays with the aggrieved party; in defamation cases, the accuser—in this case the media – must demonstrate the truthfulness of its charges.

One year later, in June 2004, the Parliament approved a new media law to provide for more media freedom. It was enacted to protect journalists’ rights by not subjecting the owner of a media company or a journalist itself to criminal charges of slander, but rather to civil actions. The Parliament also liberalized provisions on disclosing state secrets. Under the new law, not the journalist but the individual disclosing the secret is held responsible. According to the Independent Association of Georgian Journalists (IADJ), the reforms, scheduled to come into effect in 2005, have been regarded as marked improvements over the existing legislation. However, there has been some criticism concerning the new law as well. Mainly, that it was written in a complicated, ambiguous language, allowing for different legal interpretations. The new broadcast law was drafted with the participation of the broadcast media and NGO community. The draft covers the transformation of the state television and radio system into public broadcasting stations, due to take place by the end of 2005. However, Georgia’s media has worked in accordance with the existing legislation. The new laws have yet to come into effect.

A Free Media Market

About 300 print publications have been registered in Georgia, almost ten times as many as during Soviet times. 120 newspapers and 25 magazines have been published in Tbilisi, the capital of the country. As to the private newspapers issued in Tbilisi, in most cases they have been truly independent from government control. There are a few key figures that have provided financial support such as, a leader of one of the largest

regions of Georgia, as well as some Ministers and other high-ranking persons. In practice, newspapers of all political viewpoints have been published: communistic, ultra-nationalistic, ultra-radical, and everything in-between. The nongovernmental commercial press has only published in the Georgian language. There have been no editions into the languages of national minorities. However, there have been TV and radio broadcasts in Russian, Armenian, Azerbaijan, Hebrew and Greek.

Private TV channels in Georgia have been well developed. Currently, there are six, but without having the possibility to broadcast throughout Georgia. The same has been true for private radio stations. For the most part, they are music, FM stations, with little content on political and public affairs. There have been two state-sponsored radio and TV channels that cover all of Georgia. The state press is small. The government periodicals include: "Sakartvelos Respublika" ("Georgian Republic"--in Georgian language) and "Svobodnaia Gruzia" ("Free Georgia"--in Russian), print laws, governmental chronicles, decrees, governmental events and political rearrangements. Although Georgian law has not provided for preferential legal treatment of state-owned media, these outlets have had better access to information and accreditation than private outlets.

Until 2003, the major electronic media had been controlled by the government. Until then, the first and second TV channels were the only electronic broadcasting organisations with nationwide coverage. However, after the "Rose Revolution", the first TV channel became a public broadcasting station. In the 1990's, the privately owned Rustavi-2 became a competitor to state broadcasting owned television. It broadcasted mainly within Tbilisi but its news programming was rebroadcasted through local partner companies. In 2003, two new TV channels were launched by two financial groups—Imedi-TV, started by Badri Patarkatsishvili, a Georgian former oligarch and Mze, owned by a banker named Vano Chkhartishvili. Both TV stations were established in time to influence the 2003 elections, but neither could effectively compete in ratings with Rustavi-2.

Because of the growing popularity of the private broadcasters, government television introduced somewhat wider coverage, but largely continued to function as outlets for official views. Despite political preferences, the private broadcasters provided for a somewhat more balanced coverage of political events and brought attention to a variety of political views. However, before the Parliamentary elections of 2003 and especially during the 'Rose Revolution' Rustavi-2 openly supported the opposition.

At the end of 2003, a nation-wide radio broadcast appeared by a FM radio station "Imedi", also owned by Patarkatsishvili. Initially, broadcasts only covered the two large cities, Tbilisi and Batumi. Today, its broadcast covers approximately 70 percent of Georgia's territory and intends to reach its full territory. "Imedi" had been the only FM station with information programmes instead of music. Although it has not attracted a large audience in Tbilisi, it has the capability to become influential countrywide, where due to power problems TV broadcasting is very unstable, which increased the importance of radio.

Georgia has had more foreign news agencies than any other Republic of the former Soviet Union, with the exception of Russia. Here some agencies and representatives of the mass media located in Georgia: ORT, RTR, NTV, ИТАР-ТАСС, “Interfax”, “Maiak” (Lighthouse), “the Moscow news”, “Pravda” (Truth), “Komsomolskaia Pravda” (the Komsomol truth), “Obschaia Gazeta” (the General newspaper), “Trud” (Work), “Nezavisimaia Gazeta” (the Independent newspaper), “Kievskie Vedomosti” (the Kiev News), “Respublika Armenia” (Republic of Armenia), “Associated Press” (as TV, as well as information service), “Reuters” (as TV, as well as information service), WTN, “France Press”, EFE Agency, BBC, “New York Times”, and others.

There have been news agencies with good reputations—with some exceptions. For example, one of the most popular agencies has been influenced due to financial investments by leading persons who, recently sided with the opposition, largely because Shevardnadze’s policies conflicted with their interests. On 1 January 2004, a Georgian-Russian project named “News – Georgia” was successfully launched. Its purpose has been to improve the flow of information to the public of Russia and other CIS countries on events in Georgia, and to provide the population of Georgia with a full picture of events in Russia.

Georgia’s integration into the web community has taken place and electronic media versions have become available. By 1999, the Internet was no longer something new and strange in Tbilisi and other large cities of Georgia. In other regions the Internet has only been accessible through long distance telephone because the electrocommunication infrastructure has been poorly developed. Many print media editions have created their websites. News agencies and English-speaking editions have tried to distribute their information through the Internet (“Georgia Times” - www.sanet.ge/gtze). The websites have also included Russian language newspapers: “Svobodnaia Gruzia” (Free Georgia) and “Vecherni Tbilisi” (Evening Tbilisi). The government has not impeded access to the Internet and therefore the number of users has grown steadily. However, the majority of the public still cannot afford Internet access and many regions lack service providers.

Georgian-speaking newspapers have not been actively engaged in Internet-publishing. Apart from insufficient financing, the difficulty has been the absence of a standard coding for the unique Georgian alphabet and symbols. A project to resolve this problem has been underway by a nongovernmental organization called “Open Text” (www.opentext.org.ge) and has been financed by fund Eurasia. Within the framework of the project, a computer archive of the Georgian press has been created with access through the Internet.

The Free Media Market and Consequences

Taken as a whole, Georgia’s media outlets, electronic and printed, central and regional, have been numerous, but they have competed in a limited market. The rapid development and fragmentation of the mass media has been typical for all countries of the post-Soviet space. As the

mass media needed to reorient itself politically, it had to overcome a plethora of unanticipated economic problems. In the first years of democratic reforms, an inflow of foreign funds financed many of the publications. But throughout the last five or six years, the financing of separate printed editions has practically stopped. In the end, a sudden transition to chaotic economic circumstances and an increase in the number of the mass media have led, directly and evenly, to the enhancement of overall political pluralism.

The media have had limited sources of income. For most newspapers, 80 to 90 percent of the income has originated from copy sales. The majority of the newspapers have not benefited from a large circulation. The highest circulation for Georgia has ranged from 25 to 30 thousand, but only concerns weekly journals. As to other revenues for the media, the income from advertising has been small, external grants have been rare, and there has been shadowy financing, not frequent but not unknown. The advertising market has been small and underdeveloped, and businesses have been hesitant to advertise due to fear of getting the attention of the tax authorities.

The tax legislation has made life difficult for the majority of the mass media. Georgia counts 22 forms of taxes, and the media has not been exempt from them. The Georgian media outlets have been considered as any other business enterprise, and market entries and tax structures have been similar to those of other businesses. The print media has enjoyed slightly preferential tax benefits through an exemption from the Value-Added Tax (VAT) for printing and distribution, but have been fully taxed on imports.

As a consequence, at many media outlets, the salaries have been meagre, the employment uncertain, and the working conditions modest at best, although television journalists tend to have earned a bit more than the ones working in the print media. These conditions have compelled some experienced journalists to leave their professions. Some publications and channels have been under the protection of certain financial and political groups. Naturally, they have been obliged to comply with the desires of their financiers. Financing can be both general and specific--for overall editorial policies and for particular articles. Some journalists and editors have accepted bribes for reporting, as well as not reporting, certain stories. Recently, there has been a tendency for businessmen and entrepreneurs to become the official owners of the media.

“Due to the falling circulation numbers and a highly unfavourable taxation system, the general environment for the print media in Georgia drastically degenerated”, concluded a Georgian expert in an internationally organized study:

Today the only media outlets that can survive are part of larger corporations and are run by people who can afford to invest vast amounts of money in the media without taking the outlets capacity for sustainable development into consideration.

A somewhat disreputable businessman, Badri Patarkatsishvili, in 2002 and 2003, invested into the media market, gaining control over some of the leading print editions and the broadcasting company “Imedi”.

The Political Consequences

The market forces it would seem, should determine who can continue to compete and who drops out of the contest. The media has been battered by the powerful unregulated market mechanisms on the one hand, and constrained by government regulations and illicit influences on the other hand. The market economy of Georgia has remained unsettled; many of the new newspapers and magazines have attempted to emulate what succeeds in profit terms. A majority of the print publications have struggled to find readers and thus have lowered their standards to that of a sensationalistic or yellow press. Journalists and experts allege that there have been frequent instances of “commissioned journalism”, when political and economic interest groups have paid to discredit their opponents and competitors, which has added to the contentious tone in the media. Politically frustrated and entertainment-driven audiences, desiring more drama and TV shows, have been an influential motivation behind the transformation of the media sector not just in Georgia, but in the entire region.

Observers say that the mass media of Georgia have followed the principle of sensationalism in politics. A political leader from Abkhazia described the following experience: “The mass media in Georgia has determined the public opinion to a greater extent, and it has dealt with certain events and completely ignored others”. After having issued the first part of our research concerning the means of settlement of the Abkhazian conflict, I visited “Rustavi-2”, and other bodies of the TV and press. I provided them with the following information: Nadareishvili and his group convinced the population that there is no other solution of the Abkhazian problem, except for a military one. We believe that the majority of the population supports a peaceful settlement of the issue. This should help reasonable thought. Should not this information be provided to the population? I have proposed to arrange a discussion, to compare both points of view, to find out what the different arguments are. In vain! ... I got the impression that the mass media perceives a violent solution of the problem as newsworthy, because it falls in line with commercial needs. In their opinion, a peace process would not nearly contain as much dynamism as would a military one, or just the talk about it. From the point of view of the mass media, sensations are commercially more valuable.

Thus many media outlets have accepted contributions from businesses and political groups in order to survive. The media has found it difficult to adjust to the confusing economic, social, and political realities in Central and Eastern Europe, and there has been more chaos in Georgia than in most other countries. The rapid and uncontrolled privatisation of most media resources (notably in Russia) during the mid-1990s, has led to the penetration of former nomenklatura and new oligarchy interests into public radio and television. This has allowed

various nationalistic and populist leaders to voice their propaganda with the help of recently-privatised broadcast companies. Under such conditions, the ongoing transformation of the political system may be perceived as entertainment, where personal appearances and extravagant behaviour portrayed by the media matter more than political ideals and affiliations to social or political issues.

The newspaper GT interviewed one of the leading political persons of the country. Two years ago, he was considered the right hand of President Shevardnadze. It was the interviewees wish not to be identified. "As a politician, I am able to say that the Georgian mass media has been guided by certain political groups". It is difficult to indicate the basic causes for this tendency, though it is likely, that it is caused by the fact that the press has demanded constant subsidizing. Politicians, especially before elections, do not spare means for the mass media. A study has already indicated that typically in Georgia, the media outlets materialize before elections, and often disappear after the end of the polling.

The Time of Shevardnadze

A survey *Nations in Transit* evaluated Georgia's media situation as Shevardnadze's time in power was coming to an end.

The Media legislation has been mainly liberal. Independent newspapers have fully dominated the print market. Independent TV and radio companies have dominated the airwaves in the capital and have increasingly competed with state-run broadcasting in the provinces. The competition by independent broadcasters has forced state-run TV to make its programming somewhat more pluralistic, but it has continued to serve as an outlet for government propaganda. There has been no state censorship of the independent media. The programming content of the independent media has been pluralistic but often skewed by the interests of specific oligarchic groups. Outside the capital, journalists have often been intimidated by the government. In 2003, the government's attitude toward the media grew more hostile but did not effectively curb the freedom of the media; indeed, media pluralism has actually increased.

Shevardnadze himself gave public praise to the freedom of the media and, of course, to the public condemnation of corruption.

One of the big achievements of democracy in Georgia has been the independent mass-media. I am the President of the country, the guarantor of the Constitution and democracy, and I shall not allow that anybody puts pressure upon the mass media.

Shevardnadze said this to the Parliament before the elections in 1999. Generally, when the mass media held charges against the politicians in power, there never was much reaction from the official side. Shevardnadze, notably, would not publicly respond or criticize them. Evidently, the tactic was to ignore specific criticism. There were instances of media representatives being harassed or attacked, but no persistent, concerted persecution campaign against them took place. However, as the government's popularity diminished, leading officials, including the President, became noticeably hostile toward the media and called for more restrictive legislation. In October 2001, a raid by the Ministry of Security at the Rustavi-2 TV broadcasting station (for alleged tax evasion) triggered large demonstrations and led to the dismissal of the entire cabinet and the resignation of the Speaker of Parliament.

Georgian officials have seldom gone to court, even if speculative accusations were published against them. When legal proceedings were initiated, the courts tended to be lenient or favourable towards the media, either acquitting the accused or having them pay minimal sums, not the large amounts asked for by the plaintiffs. However, in 2003, the television station Rustavi-2, which had become a major Shevardnadze critic, was targeted by a broad government campaign for harassment and discreditation. A court imposed a penalty of 1 million GEL (some USD 475,000) on it, for defaming Akaki Chkhaidze, head of the State Railways Department. Chkhaidze was a strong political ally of Shevardnadze and known as 'the main cashier' of the Shevardnadze family. The huge fine would have forced the station into bankruptcy, but as the result of an appeal the amount was greatly reduced. (Shortly after the Rose Revolution, Chkhaidze was charged with corrupt practices and detained by the authorities).

During the years of Shevardnadze, the Georgian political spectrum of the mass media tended to gravitate towards two political poles, towards the legislative and executive authority. The legislative authority perceptibly enjoyed more sympathy of the mass media. Journalists and analysts tended to focus their criticism on the executive authority. It has been alleged that here was a time when many political editors wrote articles in a private office of the Deputy Press Secretary of the Parliament, Eteri Maisashvili. Thus, a certain climate of politics was created with the assistance of the Parliament of Georgia. Georgia's public has gotten used to the newspaper and TV styles. For many of them, which group supports which media outlet was (and still is) taken for granted. Of course, there have also been exceptions; some companies have tried to maintain objectivity. But, unfortunately, their financial situation and circulation have not allowed for dissemination and public influence; therefore, they have not been able to alter the public tenor of the country's media.

As Horchilava Vakhtang, the Editor-in-Chief of the newspaper "Martali Gazeti", described the media's situation:

"I believe that the freedom of speech in Georgia has not been oppressed during the last twelve years. Some editions

intend to please certain groups. According to a saying, he who pays the piper calls the tune. Perhaps, it has been too much to expect objectivity and adherence to principles from journalists who have not received their salary for several months. If the economic situation in the country improves, then fully independent publications will appear”.

The Rose Revolution

Georgia spent most of 2003 anticipating the November elections, which were widely viewed as the only means available for bringing about long-desired reforms. Georgian media outlets had become deeply engaged in the political events, often abandoning the role of a neutral observer and becoming partisan participants. Opposition leaders extensively used the television as a means to gather the political support. The broadcasting company “Rustavi 2” openly supported the opposition. Before and after the Presidential and Parliamentary elections, almost all media outlets revealed political allegiances or external guiding hands. This went on well after the revolution. The intense focus of attention and the immediacy of coverage of events produced a massive public response and an impact on the political outcome.

With the elections approaching, the Georgian government became more repressive toward the media. Abuses and attacks on journalists and media outlets increased in frequency, while the government tried to restrict the freedom of the media with legislative efforts. The Central Election Commission proposed to ban broadcasts of political debates 50 days before the election day. Also, during the election year, three new broadcasters were launched—TV Imedi, TV Mze, and TV 202. The competition for viewers and scarce advertising revenue immediately increased. These stations were ostensibly created to shape the public discourse prior to the elections. It has been observed in Georgia that media outlets materialize before the elections, and often disappear after the end of the polling.

As the Presidential and Parliamentary elections from January to March were under way, the presence of a huge number of foreign journalists was recorded. In total, more than 250 journalists covered the Presidential elections. According to “Mtavari Gazeti” and estimates of the international observers, the work of the Georgian mass media left much to be desired. International experts noted that in the print and electronic media, attention was predominantly focused on Mikhail Saakashvili.

Basically, the most popular TV channels covered their favourite part of the elections. In most cases, the information provided was positive: 27 per cent of the broadcasting time of popular TV channels was devoted to Saakashvili. International observers also noticed that the Georgian press devoted the majority of articles to Saakashvili, although they were offered a wider spectrum of political views. The TV of Adjara, however, devoted 73 percent of its broadcasting time to the Party “Agordzineba” (Revival). A subsequent report stated that the TV channel “Imedi” covered the elections most evenly. That trend was

shared by channels on the other side of the political spectrum. Imedi and Mze television, established shortly before the elections, had distinct pro-government programming which was praised by Shevardnadze. He compared them favourably to the state-owned Channel 1 which, according to the incumbent, did not adequately present the Government's position. "One television channel -- at least one -- ought to work for the benefit of the state", Shevardnadze complained.

An increasing political militancy of Georgia's television channels was clearly obvious on the eve of the elections. "We witnessed the transformation of Rustavi-2 into a political party", commented the Western radio station Radio Liberty. "All state independent channels tried to maintain the level of pluralism to some extent by giving voice to various forces", said Ghia Nodia, a political commentator, "not managing, though, to hide their personal sympathies for one or the other political force". During the last days of the opposition, the leader of the revolution movement, Saakashvili, blocked the building of the state television Channel 1 and demanded that the events at the House of the Government were to be broadcasted live.

After the elections, an observer study wrote that the "Georgian media outlets became so involved in the political process that they almost abandoned the traditional role of a neutral observer. Opposition leaders used television extensively as a tool to rally the public. The real-time coverage of events had an enormous impact on the political outcome. In the pre- and post-election period, almost all media outlets demonstrated their political alliances, and this continued well after the end of the revolution".

Retrospect and Prospect

A major challenge the Georgian media faced was to regain credibility that declined during the revolution. This decline has been indicated by a drop in audiences and readership numbers. To regain lost popularity, media businesses will have to distance themselves from the chaos of the transition period—a difficult task given the emotional attachment many journalists have to the political groups swept into power by the revolution. The mass media of Georgia understood that after the Rose Revolution it was in the midst of a new stage of development. Looking at what had taken place before and what could be anticipated, journalists had mixed feelings.

Inga Grigolia, the leading journalist of the broadcasting company "Mze" (Sun) said:

I think there are no grounds to be afraid of oppressions of the mass media in Georgia. Recent events have shown that the mass media possesses real power. And journalists will not easily give this power away for a quiet and comfortable life.

Eka Khoperia, the presenter of the analytical program on a TV channel "Rustavi – 2" believed that:

Freedom of speech – the biggest achievement of democracy in Georgia. I think that journalists really influence the formation of public opinion. With the new authority, the situation regarding freedom of speech, at least as it seems to me, will not change. On the contrary, the professional level will be raised.

Zaza Abzianidze, the editor of the newspaper “Literary Georgia” stated:

I do not think that the situation in Georgia can be named as freedom of speech. The “printed word” should have a certain value. Investigations of journalists resemble a voice in the wilderness. The economic situation in Georgia has practically destroyed the non-commercial journalism. There really have been no publications focused on the development of an intellectual potential.

Gutniashvili Lali, the editor of the newspaper “Kviris Palitra” commented:

I do not remember a case when an inappropriate reaction on this or that revelatory article has followed from the part of authorities. Neither do I remember calls from the top, nor threats directed at journalists. I think that journalists in Georgia are entirely free--they can choose a theme, find the necessary facts and publish them. The problem is that the authorities do not respond to revelations made by journalists. I hope, with the arrival of new authorities, this situation will change, and a statement of a journalist will find value again.

After the Revolution

The news media had hopes that Georgia would open the road for a greater press after the journalist played a key role in the “Rose Revolution”, but many journalists turned out to be disappointed. The television news coverage usually follows the lead of the new government. Only a month after Saakashvili came to power, Rustavi-2 cancelled the political talk show “Nochnoi Kurier” (Night Courier). Although Rustavi-2 had been Saakashvili’s major supporter, broadcasting opposition protests giving its airtime to government critics, and openly celebrating the opposition’s victory, it continued its independent and critical stance toward the new government and evidently suffered for it.

The station’s owners claimed that the program needed to be reorganised to compete in the new media. Rustavi-2's main creditor was the state. When the government agreed to postpone Rustavi-2's 2004 debt payments, the station continued broadcasts in a different vein. Political talk shows on other leading television stations—including state

television and the independent channels Imedi and Mze—were also taken off the air, with executives citing the need to restructure programs to fit post-revolution realities. While no overt government pressure was reported in the programming changes, media analysts and opposition-party members were dismayed at the disappearance of television talk shows and feared that it might have been due to indirect political and financial influences.

The Saakashvili government began an aggressive and very public campaign against corruption, singling out high-ranking Shevardnadze officials which received public support. The government also used it against independent and opposition media outlets. The case that drew most of the attention was the fate of the television station Iberiya, owned by the business conglomerate Omega. The Prosecutor General ordered a raid against Omega in February during a tax-evasion probe, but police took over Iberiya facilities as well and then authorities suspended it for four months. When the station went back on air, its format had been fundamentally changed, from a predominantly news to entertainment programmes. The raid and its effect on Iberiya “rose serious concerns” about free expression, the Georgian Ombudsman, Teimuzad Lombadze, said. The financial police raided the offices of *The Georgian Times*, an English-language weekly, that had published a series of articles questioning how Tbilisi's chief prosecutor had acquired some properties.

While there were no physical attacks on media representatives, state tax authorities occasionally harassed independent newspapers and television stations. Journalists claimed that they were vulnerable to official pressure from authorities, as well as from businesses and societal elements. Business enterprises would not dare to advertise in media outlets criticizing the Government, because they were afraid of retaliation. If, compared to 2003, physical harassment of the media decreased, self-censorship increased. Under the new government, the media continued to operate relatively free. However, in early 2004, there were concerns that the diversity of the media was being significantly reduced since most of the media formerly connected to the opposition now supported the government, leaving only very few outlets that did not have a pro-governmental orientation.

Although most journalists had regular access to government officials and agencies, a few government officials denied journalists access to public briefings. For example, the Minister of Interior temporarily denied the television station Kavkasia access to the Ministry and to his public briefings. The mayor of Poti prohibited television cameras during public briefings and effectively blocked interviews of local government officials. Later, the mayor was arrested based on unrelated charges. The Government also used financial pressures to influence media outlets and sometimes sent financial tax investigators to investigate critical journals.

Conclusion

We have been able to evaluate the development and the situation of Georgia's media in a wider context. In transition countries, the role of

the mass media is often assessed alongside that of parliaments, executives, political parties and non-governmental organizations. The media can have an influence in politics. These opportunities for the media to influence the political climate have appeared as a result of the uncertain role of political parties and the slow emergence of a civil society. The media have been intermediaries between state elites and citizens. Although it has been hard to quantify the direct impact of media on political behaviour and decision-making processes, it has been clear that the media fills important gaps in social and political communication, serving as a powerful factor of consolidation of democracy. However, such a role can be fully and effectively exercised by a free, powerful, and democratic media.

Is Georgia's media free? We have referred to the findings of an international organization, Reporters Sans Frontiers. It has issued annual reports on the freedom of media worldwide. It has recorded every kind of violation directly affecting journalists and news media--censorship, confiscation of issues, searches and harassment, threats and physical attacks. The assessment has been made by people who have a thorough knowledge of the state of press freedom in a country: local journalists, foreign reporters, legal experts, and regional specialists. It has taken account of the legal and judicial situation affecting the news media (such as the penalties for press offences, the existence of a state monopoly in certain areas and the existence of a regulatory body) and the behaviour of the authorities towards the state-owned news media and international press. However, no attempt has been made to evaluate the quality of the news content or editorial policy. Only the freedom of press has been assessed, not how it is used--for the better or worse. How has Georgia fared in a worldwide comparison? In the Report issued in 2003, Georgia was in the 73rd place--with the Dominican Republic just above it and Mexico immediately below. The Ukraine was ranked 132nd and Russia 148th. A year later, in October 2004, Reporters Sans Frontiers ranked Georgia as 94th noting, however, that the decline was largely due to press freedom violations in Adzhara and Abkhazia.

Is Georgia's media powerful? On occasions, it has possessed much power. Perhaps it reached its highest point on the day when Shevardnadze was compelled to relinquish office. But the power rose to a high level because of immediate circumstances--public excitement surrounding controversial elections. The direction of power was seldom decided upon in editorial offices, as generally is the practice in established democracies. Often, the direction was given by business and political interests--which also has been known to happen in the same established democracies, but without the powerful impact as in Georgia.

Is Georgia's media democratic? Again, here one should consider it in the context of the region: Central and Eastern Europe and the Southern Caucasus. On the one hand, observers have said that the mass media of Georgia, in contrast to the fourth estate of Armenia and Azerbaijan, have come closest to the democratic standards. On the other hand, both a decrease in professionalism and chaos have been mentioned. The opinions of Georgian journalists themselves concerning freedom of speech have differed. Journalists--as well as media readers,

viewers and listeners—have spoken of a necessity to improve the professionalism of journalists, and to develop and ratify journalistic ethical standards. Commonly, media representatives, editors and journalists of the print and electronic media, have been aware of the issue of media and democracy. In March 2004, a meeting organized by Internews Georgia, Georgian Young Lawyers' Association and Trade-Industry Chamber of Georgia brought together mass media managers and representatives. The main theme was the performance of Georgian TV stations during the “Rose Revolution” with a key question: “Who do the TV stations serve – governments, owners or the public”? The main problems of Georgia’s mass media have been the financial dependency and excessive commitment to the new leadership of the country. “We believe the new leadership of Georgia is able to drag the country out of the crisis, but the journalists shouldn’t forget about objectivity, it’s always necessary to reflect the opinions of the opposing side. If a journalist does not fulfil that task and if he or she will not be a bit critical towards the government – we’ll get a worse result” concluded Genadi Uchumbegashvili, Director of the Tbilisi Bureau of Internews.

Chapter 11

The Georgian Security Sector: Initiatives and Activities

Shorena Lortkipanidze

Introduction

The regime of Shevardnadze met an inescapable end. It suffered from grave economic and social problems, political disappointment in the people. Shevardnadze was a political tactician who thought he could always come up with a stratagem to remain in power with a lasting and unchanged regime. Fraudulent parliamentary elections in 2003 were the last tactic, but it was carried out publicly and society simply did not accept that this is what it wanted. The kind of a regime Shevardnadze had established was the fundamental reason for “the Rose Revolution” in Georgia. Its origin was obvious and discernible, driving force a role of the people and the strong opposition movement was strong, and their demands clear: sweeping, cleansing changes in the country.

The new Georgian leadership understood the challenges facing them in the near future. Politically, the conduct of elections, presidential and parliamentary, must be free, fair and transparent elections; fighting corruption and organized crime is a priority; there must be revamping government institutions and the civil service, which collapsed or withered under Shevardnadze; honest, competent and educated people must be attracted to the government service; pensions, salaries and other social safety payments must be made on the time; restarting economic growth and foreign investment amid deep economic crisis; managing a difficult relationship with Russia; attempting territorial reintegration in the face of Moscow supported separatist opposition.

All these tasks are too difficult to achieve in a short period of time. The new leadership made the first steps initiating structural changes in governance. The Constitution of Georgia was amended in a few weeks. Similarly, within weeks the new government started reforms in the Ministry of Defence, the Ministry of Interior, and the entire financial administration system. Reforms in education and decentralization of power are currently underway.

A change of leadership cannot resolve Georgia’s deeper systemic problems. Corruption, economic stagnation, energy shortage, uncontrolled borders and the relinquishment of significant territories to separatists movements supported by Russia in Abkhazia and South Ossetia, represent great obstacles to the progress of the country. Georgia’s future depends on the new government’s willingness and

ability to have far-reaching improvement of government and the governance beyond the security sector.

There various opinions on the revolution. The subsequent 'Orange Revolution' on the northern shore of the Black Sea emphasized interest in the area and in Georgia. But there are also critical assessments of revolution and its post-revolution implications. An American newspaper commented that "The bloom is not off the Rose Revolution, but Saakashvili has impatient increasingly vocal critics who want to see faster pace in the tedious and often unpopular business of changing Georgia's stagnant economy.

It is hard for Georgia to retain the revolutionary spirit. For the new Government, expectations are high. Saakashvili has remarked that the very size of the vote, 96 per cent, adds to the discontent; 51 per cent would have given him a victory, but lower expectations and less disappointment.

The focus of our interest is the security sector and its governance after the revolution. In many ways the general security situation of Georgia can be said to have improved after the revolution. But the main concern is to have a thorough assessment of security threats and proceed to design the force planning system according to the threat analysis. The security environment is fragile and the requirements to Ministry of Defence to modernize the entire security sector remain an issue of major importance to the stability of Georgia. Piecemeal improvement will not suffice. Currently there is a limited defence planning system because there is no fully-developed National Security Concept. A new planning system, implicit in the IPAP (Individual Partnership Action Plan with NATO), will be based on a hierarchy of defence planning documents, which are under development.

The NATO-Georgia relationship is high on the agenda. Integration in NATO has broad public support in Georgia. But the Parliament as well has confirmed that membership in NATO is a high priority of Georgia's policy. On September 13, 2002, the Parliament passed the "Resolution on Beginning of the Process of Accession to North Atlantic Treaty Organization (NATO)". The "Interagency Governmental Commission of Euro-Atlantic Integration", established under a Presidential decree, has elaborated a "State Program of Euro-Atlantic Integration." In December 2002, the National Security Council of Georgia approved this program. Political motivation towards integration into the Euro-Atlantic Structures was enhanced with the revolution. But again, political motivation alone is not enough for the transformation of the country in general.

The situation of the security sector is among the most important and challenging issue for the country's well-being. We must ask the question: What had happened since the revolution in Georgia in the security sector? One of the responses could include the willingness of the President to a build strong and large--army, but the reforms intend to downsize Georgian Armed Forces. As we see, there is more than one path towards a reformed security sector.

General Characteristics of the Security Sector in Georgia

The enhanced political will to implement reforms and to transform the whole political system plays a very important role in the creation of a new security environment in Georgia. On the other hand, for the new independent states, having no democratic tradition, the major goal is the formation of security structures, their management and financial support, and the coordination of activities within a framework of democratic control over them. The “Rose Revolution”, followed by constitutional changes and the quick reform of the so-called “power ministries”, recognised the need to amend and to change the laws coordinating security sector.

The democratic framework was altered and strengthened at the same time security sector reform was reoriented and accelerated. According to the law “On Structure and Activity of Executive Bodies” the list of ministries and departments whose norms and regulations stipulate their membership in the security structure are: the Ministry of Defence, the Interior Ministry, the Ministry of State Security, the State Department of Border Guards, the Intelligence Department, and the Special Service of State Protection.

Major internal changes have taken place. The State Department of Border Guards was integrated into the Ministry of Interior. The Intelligence Department was incorporated into the Ministry of State Security. The Military Doctrine approved by the Parliament defines military forces of Georgia as follows: the Armed Forces of Georgia, Border forces, Interior Ministry Troops, and other armed formations created according the norms established by legislation. The Armed Forces of Georgia consist of land, air, and naval forces.

According to the Constitution, the tasks of Parliament consist of, firstly, determining the main directions of the country's domestic and foreign policy via standing parliamentary Committees, developing the required legislation, adopting the state Budget, and ensuring control over implementation of current tasks. The Government of Georgia, as the executive authority, bears the responsibility for the activities of state agencies operating in the field of security and defence. It is responsible for providing these agencies with all the necessary material resources and funds in accordance with the decisions of the Parliament or the decrees of the President within the limits of its constitutional power.

The democratic control of the security sector includes the parliamentary oversight of Ministry of Defence budgets, legislative actions regarding soldiers' rights, and the program of civil education in security related matters. Generally, the exercise of democratic control through parliamentary oversight has improved, with the major emphasis on the Ministry of Defence. For better an understanding of the current trends in the security sector it is necessary to review briefly each sector of the security sphere.

Reform in Defence Services

As the post-revolution processes are under our attention, the starting point will be developments in the security sector after the November events in Georgia. After the revolution, the first step towards the reform of the Ministry of Defence was the appointment of the civilian Minister. It was the main recommendation made by the ISAB (International Security Advisory Board) to the Government. A Defence restructuring process was initiated in March 2004 and addressed the manning issues in the Armed Forces. An interim study of personnel numbers and structures is being conducted in the Ministry. The objective is to downsize the Georgian Armed Forces (GAF) from 24000 to 15000. The specific tasks of the restructuring process consist in the identification of missions of structures and substructures in Ministry of Defence and GAF, the definition of manpower requirements, the reorganization of financial management and procurement to meet western standards, establishing anti-corruption measures, the identification of current facility and housing requirements, the making of various recommendations, and the identification of the economic effects of downsizing the Armed Forces.

The Ministry of Defence of Georgia has initiated the elaboration of proposals for legal changes. "Law on Defence", "Law on State Procurement", "Law on Military Service and Military Compulsory Service", and "Law on the Status of Military personnel". The short term restructuring process foresees that the Ministry of Defence will be transformed into a civilian agency, that the Ministry and General Staff are comprised of both civilians and military personnel, that there will a high level of cooperation between the Ministry and the General Staff, and that the Chief of the General Staff becomes a Chief of Defence and takes responsibility over the Armed Forces. All this is very much the Western practice in civilian-military relations and the allocation of responsibilities to the General Staff.

The objectives of reorganization have been identified as the establishment of the civilian control of the Ministry of Defence, the streamlining of the Ministry and General Staff, the clear division of responsibilities of the functions of Ministry of Defence and General Staff, the elimination of duplications, and the improvement of the efficiency and effectiveness of these services. At this time there are many uncertainties regarding the above mentioned areas. The span of control is too broad. The lines of responsibility, authority and accountability are not clear and well understandable. The system of promotions is very centralized in the Ministry. Georgia now has a mix of Soviet and Western approaches to defence planning and management, creates many obstacles for the reforming process of the Ministry of

Defence and General Staff

The main recommendation to be adopted is to decentralize this system for the efficiency of the service. There are several plans of the reorganization of Ministry of Defence.

According to Western civilian-military relations, the ones that Georgia is attempting to reach, proper, effective work in a Defence Ministry is carried out when the civilians (who, mostly, form the Ministry's staff) and the soldiers (in this case, the General Staff) when the two groups arrive at feasible solutions for what policy makers—the Government--proposes to achieve and the Parliament agrees should be achieved. It requires partnership and co-operation between the General Staff, military members in the Defence Ministry, and the Ministry's civilian body of experts. Defence needs, known to by society, approved by the law givers, and determined by the policy makers are into feasible, optimal objectives; military and civilian defence experts refine them in short, medium and long term plans and bring them to their political masters for approval. This of course is an ideal situation and in reality even the best-organised defence establishment encounters considerable disagreement and friction, and Georgia's defence establishment certainly is not a well organized one.

The difficulties civilians have encountered in the transition states, particularly the ones which once were parts of the Soviet Union like Georgia, have been summarized as follows. Effective support for the Minister requires partnership and co-operation between the General Staff, military members in the Defence Ministry apparatus, and the Ministry's civilian body of experts. These civilian experts need to be knowledgeable enough to address defence and security issues with credibility and confidence. Without such civilian expertise, the Minister and other senior decision-makers cannot take the hard decisions - frequently opposed by an entrenched and conservative military staff - that may be needed to ensure that the Armed Forces' force structure, equipment, training, personnel, and operations are effectively targeted toward meeting society's priority tasks.

Unfortunately, the Soviet heritage has left Georgia without this strong body of civilian expertise needed for of defence and security sector reform. The Ministry of Defence is to develop policy; it is political civilian agency. Its key features include: policy, planning and programming, finance and budget, contracts and purchasing, audit functions, an office of Inspector General, a military legal department and legal adviser. As in Western practice, the civilian staff would consist of political appointees and career civil servants, as well as a mix of civilian and military personnel.

There are key roles for each member of the General Staff. The Chief of Staff is the Commander of the Armed Forces. The Deputy Chief of the General Staff has the principal role as Director of the General Staff. The General Staff includes: Personnel (J-1), Intelligence (J-2), Operations and Readiness (J-3), Logistics (J-4), Doctrine, Force Structures and Planning (J-5), Control, Communications, Computers and Information (J-6), Education and training (J-7), and Infrastructure. This is the customary staff structure of Western armed forces.

Along with the reform processes in the security structure, the post-revolution period is characterized by the rapid changes of high officials in the security sector. This trend is perceived differently by the society, the media, and the political opposition. But post-revolution

mood in Georgia is strong. The chaos caused by political turbulence and appointments and the problems of distributing high state positions by the former revolution activists are two problems which illustrate the issues facing Georgia today. The country's security sector is in desperate need of rapid transformation, but it requires competence in carrying out the required tasks.

Ministry of the Interior

The Ministry of Internal Affairs is in the process of reforming. The objectives of the reform include: the transformation of the Ministry from its police structure into a body responsible for internal policy of the country, the reinforcement of preventive activities of the police, the establishment of a partnership between the police and public, and the assurance of a consistent and a gradual implementation of the reform. The term "power ministries" derives of course from the old Soviet terminology and the Ministry of Internal Affairs was one of the stronger bases of "power regime" during the Soviet period. The influence of Soviet legacy is still very strong today in Georgia. The police are one of the most alienated sectors in the Georgian society. The level of trust felt towards police is very low. The police are the most corrupted service in the security sector due to its very centralized, politicized and paramilitary nature. One of the tasks of the current transformation process is to implement a full de-politization of the police.

After the Rose Revolution the Ministry of Internal affairs, like the Ministry of Defence, became civilian ministries with civil ministers. The reform directions are: a detailed regulation of the police procedures (adoption and implementation of legislation regulating organization and activities of the police); creation of centralized, electronic registration bank aimed at controlling the police units; and the improvement of personnel administration by the technical equipment of the Police Academy. The reforms also include the establishment of a special education system, establishment of fair criteria for service assessment, a transparent system of assessment, promotion and demotion, and the change from a military system to Western-style to police.

Staff optimization is a crucial part of the reforming process. The Ministry is overstaffed. Reduction will take place in the first quarter of 2005 in the following services: transport police (- 50 per cent), Property protection police (- 100 per cent), Ecology police (-100 per cent), Police Academy (- 50 per cent), Special Purpose Police named after G. Gulua (- 33 per cent), traffic police (- 40 per cent), and the Tbilisi police (- 30 per cent). In the first stage the total number of policemen will be reduced by 32 per cent.

The transformation of the Ministry into a civilian body means the demilitarization of Interior Troops and the Border Guard and their conversion into police institutions. The Ministry of Interior, in carrying out internal policy, has gained additional functions such as migration and national minorities. The responsibility of these services has yet to be fully defined. The creation of patrol and criminal police units is one of the forthcoming changes. The functions of the patrol police are: the protection of public order, traffic control, district inspection, juvenile crime police functions, individual prevention, and other preventive

activities. The criminal police unit consists of: criminal investigation, fighting against corruption, operational intelligence, criminal expertise, and Interpol.

The property protection police, fair service, medical units in the Ministry of Internal Affairs and the ecology police services are in the process of separating from the Ministry. Some functions will be transferred to local governments. Medical Units will be transferred to the Ministry of Health and Social Protection. The responsibilities of the ecology police will be shared by the Ministry of Natural resources and the Border Guard Department of the Ministry of Internal Affairs.

The functions of the central apparatus of the Ministry of Interior are changing from police functions into analytical administrative centre functions. There is a need to create an effective analytical service of crime investigation, statistics and forecasting. The system of information gathering, distribution and control is to be activated and Ministry of Defence modernized. The main feature of these reforms to bring in western practices is the system of computerization and the creation of computer-based management. Donor organizations are very active in assisting Georgia in this regard.

Organizationally and financially independent, the institution of General Inspection will implement the internal control of the system. The Interior Troops of the Ministry of Interior are transforming from paramilitary units to the gendarmerie. This project is under development.

The integration of the Border Guard Department into the Ministry of Interior is a part of the state reforms in Georgia. The preparation for the reforms was begun in the independent Border Guard Department in 1998-1999. Close relations with partner countries were and still are the main priority for this objective. In a short period, the Department established bilateral relations with Border Guard services of many foreign countries. The relationship with Germany is particularly important and rewarding. The Georgian Border Guard service is reforming into the German and Finish Ministry of Defence type of Border Guard service.

The Coastal Guard Service was created in 2001 with American assistance. In 2003, under the American consultancy, the reform of the Coastal Guard Service was implemented. The representatives of the Border Guard Department say that they have a service fully ensuring European standards. The main tasks of this department include: the transformation of Border Guard Forces from the military structure into the civilian law enforcement body and the creation of Border Police; the creation of decentralized system of border management and the implementation of structural reorganization according to this principle, the creation of professional education system and contact system, the equipment of border guard service with Ministry of Defence technologies, the transformation from tangible protection to the system of operational legal control, and the proper inclusion of the border guard service within the legislative framework.

The integration of the Border Guard Department into the Ministry of Interior is now the major goal of this integration process. This requires clarification and streamlining functions, and the definition

of tasks and responsibilities of each service. The tradition and practice of decentralized governance is weak in the security sector; another example of Georgia's Soviet heritage. The decentralized system of police force management decreases bureaucratic barriers and dilettantism in the system. The functions of Border Guard department in the structure of Ministry of Interior are the following: protection and control of borders by the police, the safety of air and marine traffic routes, and railway safety. These tasks have proven to be difficult to achieve in light of the current stereotypes and economic problems, but the clarification of these functions is, nonetheless, important for the integration of whole system.

The Ministry of State Security

The reforms and the transformation process also concern the Ministry of State Security. The Intelligence Department, hitherto an independent agency, was transferred to the Ministry of State Security. The head of the Department is the Deputy Minister of State Security, is in charge of all matters of intelligence concerning the country. The Ministry is attempting to be more open for the society: one of its deputy ministers is responsible for Public Affairs and relations with Media, but the traditional habits of this service may be difficult to change.

The Special Service of State Protection has only operational functions. The role of the service is the protection of the head of state and other key elements of the state. As the Government places special emphasis on ensuring that the oil pipelines and other vital economic assets in the country remain secure, primary responsibility for protecting the pipeline rested with the Special Service for State Protection. The recommendations of the International Security Advisory Board propose considerable changes. Functions of an essentially police nature are to be transferred to the Ministry of Interior. The Special Service of State Protection is growing in size to include additional responsibility in pipeline protection. Para-military duties of this nature are suited to the gendarmerie force, which will operate under the coordination of Ministry of Interior.

Perhaps the single most politically pleasing step in reform was dismantling the hated traffic police. It was an underpaid, overstaffed force whose members added to their meagre income with a practice of charging automobile drivers for petty or imagined offences. This petty corruption is found in all post-socialist societies and for the same reason—but in Georgia it has been particularly widespread and intensely resented. President Saakashvili said the country passed a major test when Georgia's undisciplined drivers survived two months of virtual roadway anarchy until a better-trained, higher-paid replacement force could be recruited.

New Security Challenges

The state building process took years in Georgia. The security sector governance is one of the biggest challenges facing the country. Realistic assessments of the aspirations of the state and of the threats and

challenges to these aspirations have crucial importance to the whole state building process. The articulation and promulgation of such policy is very important. The National security concept and a military doctrine have yet to be carefully developed. The lack of this kind of document is an obstacle to the development of reforming and transformation processes in the security sector. On the other hand, there have been a few achievements; one of them is that Georgia has expressed its willingness to become full member of NATO.

The assessment of a situation in regards to security sector governance is important. If we judge from the four criteria point of view, we can indicate the main achievements in the security sector. These are: democracy, compatibility, sustainability, and legality. As in post-revolutionary situations, there are many internal and external threats. It is important that the new leadership scale down unrealistic expectations. Reforms in Georgia – with its entrenched corruption, lack of competitive industries, poor work ethic, worn-out Soviet period infrastructure, and widespread poverty – will be difficult, especially in the face of a deep economic crisis and security threats.

Russia holds important cards in the South Caucasus game. Russia views Saakashvili as “too pro-American and too unknown”. Russia commands four military bases in Georgia, including the naval base in the port of Batumi and an army base in the Armenian populated Javakheti region. International, namely American, pressure is high towards a Russian withdrawal from bases in Georgia on the basis of the agreements signed in 1999 at the Istanbul Summit of OSCE. Russia has yet to fulfil this agreement.

Moscow still controls vital energy resources. In 2003, the Russian state-controlled companies of RAO UES and Gazprom acquired the control of these resources. Russian cities are full of repatriated Georgians. Russia has a visa-free agreement with Abkhazia and Tskinali region. The Georgia-Russia challenge is as internal as external. Georgia is a member of the antiterrorist coalition, which on the one hand is the umbrella organization for state security, but on the other hand, enhances the threats and risks, particularly when we have some problems with Chechen terrorists time to time crossing the Georgia's State Borders. Pankisi Gorge was announced as the shelter for terrorists.

Regional factors should be pointed out as part of the many security challenges. The differences in political orientation and foreign policy priorities illustrate security governance in each country. There are two security systems in the South Caucasus. Armenia is a full member of the Collective Security Treaty of the CIS, while Azerbaijan and Georgia want to join NATO. As noted above, Georgia is implementing IPAP, which is the prelude to MAP, the Membership Action Plan of NATO. The region also contains different types of democracy, which leads to different security systems. Armenia has strong executive branch with a relatively weaker parliament. The revolution and constitutional changes in Georgia, however, increased the president's powers.

What role should Georgia play in this political environment? This answer is hard to determine. Georgia has not yet finished security documents or a Strategic Defence Review. It should open the way for

the consideration and approval of a National Security Concept. The Revolution period is not over. We expect a revolution in the governance of the country. The security sector is the priority area on the agenda of the new Government and the Parliament.

Conclusion

President Saakashvili has expressed hope that Georgia could become a candidate for NATO membership by 2006. Since Saakashvili became president in January 2004, NATO-Georgian contacts have expanded rapidly. NATO, of course, makes its decisions over membership based on political as well as defence considerations, and Russia's attitude toward NATO expansion around the Black Sea (presumably, Ukraine's admission might precede that of Georgia's) will weigh in the balance. As to the security and side of the reform, Georgia must first undertake a comprehensive modernization and democratization of its security and defence establishment, including Border Guards, Interior Troops, and the Armed Forces.

In September 2004 the Interior Ministry announced it will transfer its military units the Internal Troops to the Ministry of Defense. Under the Soviet system, and were one of the most instrumental forces of police repression, to be used against the potential internal threats. Following the old Soviet model, the Georgian Interior Troops until now were subordinated to the Interior Ministry. The reform of the Interior Ministry foresees its transformation into a fully civilian organization. This decision was taken by the President Saakashvili and the National Security Council. It was also one of the recommendations of our western advisers, as it would bring Georgia closer to NATO practices. Only a small group of Special Forces are to remain under the Interior Ministry's subordination, in charge of maintaining order in the country.

As part of restructuring in 2004, the State Border Guard Department will be from over 9,000 employees to 5,700 today. "There was a Soviet system and it was nonsense to have some of the departments». "We have started and also concluded the first stage of reform based on the experience of European states and our main aim is for Georgia's border system to meet the requirements of Euro-Atlantic structures. The Border Guard Department, which is part of the Ministry of Internal Affairs, says salaries have increased markedly but still remain two to three times smaller than what the Ministry of Defense. The only thing that prevents [the Border Guard's] rapid development is the paltry material resources that we have. The entire infrastructure was destroyed. However, they noted, "poor logistical support and insufficient funding are hindering the successful implementation of the reform and future development of the agency».

The defence budget is encouraging. Recently adjusted, the Defense Ministry's budget stands at 317 million Lari, approximately USD 173 million, a sizeable increase from the originally planned 137 million Lari, or \$74 million. The size of Georgia's armed forces is a prime concern. The Chief of the General Staff has said that Georgia is working towards a goal of 23,000 troops. (Currently, there are about

16,000 troops). Some Western observers suggest that the increased funding flow has not encouraged planning for the budget's effective distribution. Among the shortcomings there is an inadequate long-range planning and inattention to budgetary detail. Although the budget increase is remarkable there is no planning, there is no acquisition or procurement process, and no feasibility study."

Defence Minister Okruashvili, who assumed office in December 2004, has already come under criticism for his role in implementing changes. Okruashvili, to give one example, has been accused of reversing earlier progress in establishing civilian control over military institutions. He has also come under fire for reportedly haphazard spending on weapons from bought from former Warsaw Pact countries. There have been turbulent personnel changes among the senior civilians and the military in the Ministry of Defence, particularly in the General Staff. Defence Minister Okruashvili, however, it all comes down to results, and there were no persons who were results-oriented. Okruashvili concedes that the challenges are immense, but nonetheless argues that considerable headway is being made. The greatest problem is time, he believes, because Georgia has lost almost 10 years."

However, defence expenditure without a well conceived reform plan will not advance Western defence advisers argue. Parliament should adopt Georgia's long-awaited National Security Concept, which should streamline the reform process, by the end of April of 2005.

The respective responsibilities of civilians and the military in the customary Western method of coherent security planning are generally done as follows. Successively, there is a threat perception, a national security concept, a defence policy, a military strategy, force development plans, training and doctrine, and so forth, dividing and subdividing into detailed plans and practices. Without a coherent planning process, it is difficult for the military to substantiate manpower requirements, materiel, funds, supplies, technical and other resources, as well as work out plans of training and deployment. Without a clear definition and prioritization of threats, it difficult to calculate the manpower and materiel needed for performing certain missions; types of weapon systems to be equipped with; and indicators for assessment of the level of mission readiness.

An important step would be a Strategic Defense Review is a survey of the existing force structure, weapons, and equipment would give defence officials a clear picture what the Georgia's military has and what are the priority needs. As matters stand, Georgia's difficult security sector situation is well known, various requirements have been recognized, the will to reform is there, but an overall, comprehensive picture of how Georgia will proceed is far from clear. With information on hand, the government could begin a systematic, resource based, long-term military build-up and security. However, it can be done on the basis of a thorough an overall threat assessment, which is presented in a national security concept, the country's security threats.

Georgia has a comprehensive modernization effort for its defence establishment under way. The defence budget received a large increase, from the originally planned 137 million Lari, or USD 74 million to 317

million lari, or USD 173 million. As to the size of Georgia's armed forces, they are being built up. Levan Nikoleishvili, Chief of the General Staff, has said that Georgia will have an overall strength of 23,000 troops. Presently, there are about 16,000 troops, four land forces brigades, an artillery brigade and a special-forces brigade, but that the majority of the units are under strength. Current activities are carried according to the Individual Partnership Action Plan (IPAP). Once Georgia meets its goals, it hopes to be admitted to the NATO Membership Action Plan (MAP) as early as 2006. Georgian Defence Minister Irakli Okruashvili acknowledged that much remained to be done before a MAP is a real prospect and that the challenges are huge, but he claims that considerable progress is being made.

Western defence experts are more reserved cautious on Georgia's progress and prospects. The concerns are inadequacies in long-range planning, establishing priorities, and resource allocation. The Defence Ministry's large budget increase is being depleted due to inadequate planning, acquisition or procurement process, and no feasibility study. Western advisers believe that money should be first spent on institution-building, officer education, training and doctrine. Without enhancing readiness, Georgia will have a weak defence structure with expensive weapons. Defence Minister Okruashvili asserts that institution-building is a challenge and that it is being addressed, but that he was astonished by the bad conditions when he became Defence Minister in December 2004. Georgian National Security Advisor Gela Bezhuashvili said: "I was in the Ministry of Defence for four years. There was no fuel, no ammunition. The stockpiles were empty. Weapons, machines, tanks—they were all in a disastrous position."

The next step would be a Strategic Defence Review along the lines of reviews done By Western defence establishments, an inventory of the existing forces, weapons and equipment. The Review would tell defence planners what Georgia has, what it requires, and the accurate strength and mission readiness of its forces. With clear and objective information on hand, and with a national security concept that identifies the current and foreseeable security threats, the Government could begin a methodical, prioritized, resource based defence build-up. Without a Strategic Defence Review, the Government might advance in an uncertain direction.

Chapter 12

The Current Status of Police Reform in Georgia

Jozsef Boda and Kornely Kakachia

Political Background

Georgia's political landscape has changed substantially since the "Rose Revolution" of November 2003. Ever since the election of President Mikhail Saakashvili in January 2004, questions have been raised regarding the ability of Georgia's new government to tackle the various problems prevailing in the country and to improve political and economic life in Georgia. After assuming the presidency, Saakashvili has repeatedly insisted that he seeks to transform Georgia from a fractured, failed-state into a prosperous democracy. In this chapter the current status of post-Rose Revolution police reform (with a specific focus on the Ministry of Internal Affairs (MOI)) and other public security related reforms in Georgia will be analysed.

Accordingly, the President's policy priorities have been that of restoring the country's territorial integrity and curbing corruption. And, indeed, a good start has been made in addressing the structural problems facing Georgia, tackling, for example, endemic corruption, which, since independence, have profoundly harmed every facet of life in Georgia. The nation's state finances have been put on a more stable path of recovery. Revenue collection has increased, allowing the Georgian government to pay salaries on time. Within the security sector, reform of the agencies and institutions charged with public security management have been launched in tandem with those more usually associated with defence and security (including structural reforms and staff reshuffling initiated within the Ministry of Internal Affairs, General Prosecutor's office, and also the Ministry of Defence and Ministry of State Security). A new tax code has also been presented to parliament to underpin the state's efforts to prevent corruption.

After Georgia's admission to the Council of Europe, following the "Rose Revolution" an irreversible commitment to the process of democratization and to the establishment of respect for the innate principles of a democratic society and its institutions was made. The need for comprehensive reform of the Georgian Police has been recognized by the government, civil society, international donors and the police itself. Police reform is currently seen as an opportunity to change the whole culture of policing in Georgia and has been and continues to be developed in conformity with the principles of democratic policing: emphasis on respect for citizen's rights and freedom; service to and

protection of communities; and to operate in the public's interest rather than that of the government and/or a ruling elite.

International Assistance in Police Reforms

There are a number of international organizations and foreign embassies in Georgia which are very active in providing individual assistance to Georgian law enforcement agencies, including facilitating the creation of new organizational components, policies and procedures; all of which have to be considered as elements of the whole police reform process. Therefore all conclusions, recommendations and proposals are in line with efforts of the international bodies namely: the OSCE Police Assistance Programme for the Georgian Police, ICITAP, the UNOMIG CivPol international police contingent, the EU THEMIS Rule of Law mission, the Police and Human Rights Programme of the CoE, IOM, and the Embassies of the United States of America, the Federal Republic of Germany and the Republic of France. Whilst couched in terms of facilitating norms transfer from the West, the role of the international experts while conducting needs assessment missions is seen as one of analysis and advice rather than the imposition of a particular police framework.

In this context, the Minister of Internal Affairs of Georgia issued Decree No. 10, on January 10, 2005, with the aim "to develop a strategy for reforming Georgian criminal legislation". The decree ordered the creation of an operational subgroup on "Police Authorities and Crime Prevention", comprising fifteen representatives of the Ministry of Internal Affairs. The subgroup is currently divided into a head, members, a council of experts (consisting of foreign advisors) and a bureau with specific tasks. According to the Minister's decree, the subgroup must elaborate recommendations on the proper structural organization of the Ministry and the execution of effective performance of police and public security functions, which are to be endorsed by them. Currently, the organizational structure of the Ministry of Internal Affairs is under review and several structural proposals have already been outlined.

Brief Description of the Main Structural Changes in the Ministry of Internal Affairs

The Interior Ministry faces daunting problems; the lack of an educated and professional cadre in all walks of governance perhaps being the worst. It has taken some drastic steps to shake up some of the most stagnant and corrupt institutions, such as the former Transport and Traffic Police units. Currently the Ministry of Internal Affairs contains approximately 16,627 employees. From this figure the "Protection Police", Border Guards, Courier Services, Health Care Service and Fire Service are excluded. The number of active police officers in Georgia is defined at 14,501 at the moment. Half the nation's police personnel, nearly 15,000 officers, were fired in 2004.

Those still in service were issued with redesigned police uniforms and their salaries were raised up to 350-500 GEL (approx. 150-210 EUR); enough to help resist the urge to collect on-the-spot traffic fines: a habit which was the most common form of petty corruption within the Traffic Police. In general, the wage increase was nine to ten times greater than it had been in the past. The principal motivation for the increase was to reduce the previous overstaffing levels and simultaneously increase the wages of the new Patrol Police by employing fewer but training and paying them more, removing the crucial incentive for corruption – low pay. The decision was right, but without social costs for those who were fired. The sackings caused demonstrations and instability within the Police itself. It is still the case that matters could be worse if any of the c. 15,000 former police officers without a current income reinforce the activities of criminal gangs, but so far there is no indication that this has happened.

Structural Changes made to the MOI

Additionally, the following structural changes were also made to the MOI during the same period as part of the reform package:

- The National Bureau of Passport-Visa and Citizens Registration was transferred to the Ministry of Justice.
- The Main Administrative Board of Highway Patrol was established.
- The Ministry of Internal Affairs eliminated the Main Administrative Boards of Traffic Police, Protection of Public Order, Ecology Police and the Transport Department.
- The Financial Police was established within the Ministry of Finance. However, the criminal offences in regard to money laundering and forge money remain within the structure of the Ministry of Internal Affairs, as they are mostly connected to other types of organized crimes.
- The Central Telephone dispatch system is at least functioning in the capital Tbilisi and in all regional capitals.
- The so called “Protection Police” is still a part of the Ministry of Internal Affairs, but is not funded from the Ministry’s budget.

In structural terms, experts identified the main deficiencies as those related to the distinction of police powers and to the lack of a breakdown of police tasks as per the functional activities of the police¹.

¹ On this note, for example, one of the stated objectives of OSCE assistance on policing issues in Georgia is the rendering of: “Assistance to the Minister of Internal Affairs in formulating a vision, values and objectives for reform of policing in Georgia and creating a strategic plan to deliver these aims in the short-, medium-, and long term.” in OSCE, *Annual Report of the Secretary General on Police-Related Activities in 2004*, 29 June 2005, p. 28. Available at: http://www.osce.org/documents/cio/2005/07/15504_en.pdf

De-militarization of the Border Guards Department

The integration of the Border Guards Department into the Ministry of Internal Affairs and its conversion into a non-military law-enforcement branch with border control and immigration duties is seen as an essential step for the further de-militarization of former Georgian policing structures. However, the military status of the Border Guards needs to be fully removed and the institution transformed into a civilian police component. There are currently approximately 4,000 Border Guards on active service within the Border Guards Department of the Ministry of Internal Affairs. According to international experts these personnel are neither fully nor properly trained yet as an organisation. The requirement for a new 'Law on Border Protection' has been identified. The transfer of the main part of the Internal Troops to the Ministry of Defence is seen as an important step towards the de-militarization of the Georgian Police. The remaining parts could possibly be transformed into the proposed Police Support /Intervention/Riot Police units.

The Merger of Internal Troops with the Defence Ministry

The reform of the Interior Ministry foresees its transformation into a fully civilian organization. The Georgian Interior Ministry's former combat units, the Interior Troops, were part of the Soviet system, and were one of the most instrumental forces of police repression. As heir to their Soviet analogues, the Georgian Interior Troops were until recently subordinate to the Interior Ministry. The Internal Troops officially became part of the Defence Ministry's forces from 1st November 2004 onwards as part of the armed forces reform. The ministries agreed that the move is a part of wider Georgian security sector reform across both ministries.

The move undoubtedly will help to improve coordination as well as the effectiveness of the Georgian armed forces. However, it might complicate the Georgian government's relationship with UNOMIG, since an Interior Troops detachment has been stationed inside the UN defined Security Zone to protect the mission. The decision to incorporate these troops under the aegis of the MoD contradicts the spirit of the Moscow Agreement on Cease Fire signed in 1994 between Georgian and Abkhaz sides. The Georgian government cannot leave the area, which is just next to Cease Fire Line, without security reinforcement, and solutions (such as with a rapid response security team subordinate to the MoI) are being sought. On the other hand if consensus is not found then this decision might violate international agreements.

Decentralization

The level of de-centralization within the Ministry of Internal Affairs has partially improved. The Regional Police Headquarters now at least have the authority to cover their running costs, including the payment of employees, out of their specified budgets, which is transferred to the regions by the Ministry of Internal Affairs. The Regional Police Chiefs

in Georgia have the authority to appoint their respective staff within the region by themselves. This also includes the selection of personnel. The Regional Police Chiefs and their deputies are appointed by the Ministry of Internal Affairs.

Complexities during the Reforms

The Ministry of Internal Affairs has already made significant and the most painful steps to initiate Georgian Police reforms. However, in order to guarantee the success of the reforms, the experts have identified a series of possible improvements, taking into account that the reform process achieved so far did not deal with the following sources of improvement.

After the merger of the Ministry of Internal Affairs with the Ministry of State Security, a clear legislative definition of tasks for the Criminal Police and the Constitutional Security Service is still needed. For the time being, there is obviously no guidance on how to divide criminal policing measures between both agencies. According to the assessment of the experts, current system of task-mixing could lead to in-adequate investigation of criminal cases.

A new 'Law on Police' is strongly required. The current law has only a general programmatic character. To protect society from threats has to be a principal task of the police, i.e. a preventive function. The 'Law on Police' should precisely define that the principal task of the Police is prevention of such threats that endanger the public security and order. As for the repressive function of the Police (Criminal Police), i.e. its activities within the frame of criminal prosecution, there should be a detailed regulation within the Criminal Procedure Code. It should be noted that the 'Criminal Procedure Code of Georgia' is currently under revision, as well as the 'Law on Police'.

Furthermore, the implementation of modern human resource management techniques is needed in order to achieve a number of goals: to develop and implement guidelines for all police operations and administrative tasks; to adopt a discipline code; to develop and implement a standard for job descriptions; to revise the promotion system for police managers; to develop national system for elaboration of staffing tables; to abolish the military-style rank system; to introduce civilian police ranks and to develop continuous training programs for managers at the Police Academy, especially in management and planning. The development of a modern human resource management system, orientated on above mentioned activities, would be seen as an essential step, alongside structural re-organization, for the success of police reforms in Georgia.

The need for a so called 'Community Policing' model to be introduced in Georgia has been identified, but has not been defined yet. The establishment of the Patrol Police was assessed as an important first step towards promoting the idea of community policing in Georgia. However, an adequate training of patrol officers, a clear chain of command (also within the regions) and the allocation of properly defined tasks and responsibilities would contribute to a better

understanding of the advantages of the community policing model. Community policing should be seen as a particular course of action (sectorisation, contact officers, problem solving approaches and skills, etc.) within the practical day-to-day policing and as a trust and confidence building measure between the police and society. In due course a 'Community Policing Department' could be established within the National Police Directorate under the command of the Head of Uniformed Police.

Reform Program, Education and Training

A curriculum for 'Basic Police Training' has been developed in collaboration with the Ministry of Internal Affairs and the Georgian Police Academy. Therefore, the employment of mid and long-term advisors/trainers at the Police Academy is strongly recommended. Furthermore, there are indications that the Georgian authorities would implement parts of the OSCE Kosovo Police Training School curriculum. Additionally, the OSCE will provide opportunities for study visits to foreign countries, as well as for participation of Georgian police officers in the relevant courses and seminars abroad.

So far, good progress made by the leadership of the Police Academy to meet international requirements and a strategic plan has been developed. The importance of police training and education is well understood by the leadership of the MOI. However, several more developments are needed such as the integrated basic training for all law enforcement agencies (police, border police, protection police, customs, coast guards, state security, special police). The high- and middle- level management trainings and specialist (teachers, instructors, forensic experts, dog handlers, mounted police etc.) need to be developed. In a mid-term strategy the Police Academy should be a research centre for law enforcement development and sciences. A 'Police Museum and Documentation Unit' is needed to maintain the tradition of law enforcement.

Notwithstanding some of the progress made, the MOI still faces some subjective and objective problems. For instance, there is no coordination between the different branches of the ministry. It seems that many of the MOI staff has not yet got over the old habit of lacking initiative and efficiency. Furthermore, the use of analytical or research material for the different law enforcement issues is very low. Weak cooperation with the NGO sector also undermines the active involvement of civil society in the reform process.

The Future Organization of the Georgian Police

According to the new Police Development Strategy, submitted by OSCE experts to the Ministry of Internal Affairs, the main objective of the police reform is to transform the police from a formerly repressive organization into an organization that will be wholly responsible for the safety of citizens. The police should assist the community and should

not be identified with as a body that only implements the prosecution of criminals.

The second main objective of the police is to become a modern, well-functioning organization. In this regard it is formulated that the existence of an organizational culture (discipline) within the police system is essential as are the promotion of professionalism, abilities of initiatives and faithfulness, a feeling of unity and mutual support which enhances the understanding of organizational structure; all of these are prerequisites for inculcation. Moreover, the effective work of the system depends on a rational distribution of functions and an exact determination of the responsibilities for their implementation.

The following functions have been identified as the principal areas for the police's future activities :

Crime Prevention

The main function of the police is to prevent crime. In the event of a crime, the police's task is also to detect and investigate them. National programs covering the main directions of social policy improvements, cooperation with the community and various particular aspects relevant to dealing with juveniles should be introduced in the country. Tight cooperation between police and local government bodies is essential in such implementation programs. It is foreseen that such relationships should have an organizational character and 'Preventive (Public) Boards' created at the local level that will include local government and police organizations, representatives of schools, churches, media and other levels of society. In the Georgian police system, the Patrol Police is authorized to take crime prevention measures. Determining patrol police activities with relevant preventive functions does not mean that patrol police should fully exclude investigative operations from their activities. A patrol police officer will be authorized to conduct investigative operations when arriving at crime scene. Crime prevention units should be created at all levels of the Criminal Police Directorate to enable them to fight more effectively against criminality.

Suppression of Organised Crime

The fight against organized crime is crucial for Georgia. Special operations to suppress certain organized crimes will be elaborated (crimes committed by juveniles, organized and ordinary crimes, etc.). One of the priorities for the police would be to fight against drug offences, trafficking, smuggling, corruption and other types of organized crimes. For this purpose, the coordinated work of different national services as well as the improvement of special technical work and an expert system are planned. The protection of police officers as well as witnesses will be ensured through altering personal data, establishing a proper normative base and the constant improvement of special training for police. Cooperation between the police and these institutions is seen as the prerequisite for their effective work.

Provision of Traffic Safety

The poor conditions of roads and highways in Georgia remains a major problem for the whole country. As a result, approximately 500 people are killed and 2,800 people injured in car accidents annually. A lack of awareness of traffic rules, ignorance, and the poor technical condition of cars are some of the causal factors related to many tragic incidents. To solve this problem it is expected that the Patrol Police and local government organizations should conduct shared operations. Special programs to teach traffic rules can be elaborated in secondary schools. One of the important factors of traffic safety improvement is regulation. Proper rules should be created to ensure the safety of drivers and passengers while driving vehicles (e.g. use of safety belts, transparency of car windows, helmets for motorcyclists). One of the serious problems in Georgia is that animals (including cows, horses, buffalos, pigs) wander onto the highways. Administrative penalties should become stricter in case of infringements of the above-mentioned rules.

Crime Investigation

Until today the existing Criminal Police unit in Georgia has been engaged in collecting operative information only. However, in modern police systems the criminal police should be authorized to investigate crimes. The strategy of reform of the 'Criminal Law Procedure Code' considers creating a unified inquiry and investigation methodology. In order to raise the quality of pre-trial investigation of criminal offences and to fight effectively against crime, the united criminal police structure will be created, which will have both operative and investigative functions. The Criminal Police will deal with contingencies of a serious nature, detect crime and conduct its pre-trial investigation and also use preventative measures and strategies. In future, the united services of the Criminal Police will have to carry out investigative functions under the supervision of Prosecutor's Office. The New Code of Criminal Law Procedure will determine the types of crime to be investigated by the Criminal Police unit under the MOI.

Separation of Police and non-Police Functions

According to current strategic plans, police services in the new system will basically be represented in the forms of extant but fully reformed Patrol and Criminal Police units. The formation of a police working system and professional career system will be provided within the framework of the above-mentioned police services. The old military-style ranking system will be rejected and replaced by one suitable to the police. The new 'Law on Police' will include the list of ranks and rank issues will also be regulated in detail. To attract well-trained staff and to ensure transparency of selection procedure in police organizations there are plans to redefine recruitment procedure. Professional assessment system for the activities of police officers will be elaborated and

developed. This issue will be determined in detail in the “Law on Police Service”.

Structural Re-organization of the Ministry of Interior

In the new structural system of the MoI, one of the deputy ministers will be responsible for the ‘Constitutional Security Service’ (formal Ministry of State Security) and one for the ‘National Police Directorate’. According to the principle of organizational unity of the police within the framework of the Interior Ministry system the National Police Directorate will be created and within it all the units currently carrying out police functions will have to be combined. The Head of this Directorate will be the top official of the police structure of the country (the ‘first policeman’) nominated by the Georgian President. This department should unify the Patrol Police, Criminal Police and Security Police. The Border Police Directorate is an integral part of the MoI will be formed as an organization carrying out a police and law-enforcement function instead of having a structure with a militarized status and for this reason it will be included in the police system. A ‘Special Police Directorate’ will be responsible for combating terrorism and will also handle bomb disposal and other special tasks. There is no indication in the MoI new structure of who will supervise the Regional Police Headquarters, but it should be the Director of the National Police Directorate.

Furthermore, the differentiation of the management system used with the police structure has to be implemented. Three management levels will be formed at the strategic, tactical and operational levels. The MoI is at the strategic level of police management with the assigned government minister who is a civilian, and the head of National Police Directorate who is a professional police officer. The minister determines the main directions and planning of police work, sets up priorities in preserving public safety and fighting against crime on the basis of which police directorate establishes key priorities of police work.

Police directorates and other police structures of state importance are situated at the tactical level of management that fulfils special police functions throughout the country. Management at the tactical level should ensure the creation and management of infrastructure necessary for the sub-operative management system. It also plays an important role in the chain of command between the strategic and operational levels of management by working on those means and methods that are necessary for government policies to be implemented at the operational level.

Day by day police work, as well as the fulfilment of concrete police functions are at the operational level of management. This refers to the tasks of preserving public order and crime prevention, community policing and investigations conducted by patrol and criminal police within the framework of the district police structure.

The Structure of Police Management Levels

It is currently planned that the police management levels within the Georgian MoI will have the following final form:

- Head of apparatus;
- Bureau of development departments;
- Regional and development department;
- Internal central service;
- Juridical service;
- Staff department;
- Public relations service;
- Informational-analytical service;
- International relations and integration with Euro structures;
- Department of information technology and communication means;
- Logistics;
- Health care service;
- Chancellery²;

The MoI will coordinate and determine main strategic directions of work, not only for police directorates, but also for the Security Service, Fire Service and Police Academy.

At the tactical level, the police department and police structures of state importance fulfil special police functions throughout the country via the central Criminal and Patrol Police units. The main Tbilisi police department and the regional police units will not be authorized to carry out police functions directly, but they will be entitled to supervise the personnel at the lower implementing level. The National Police Directorate will coordinate and determine the strategic directions of work for the Criminal and Patrol Police central commands as well as the main department of Tbilisi and the main departments of the regional police.

The central command of the Criminal Police will coordinate the work of Criminal Police throughout the country and at the same time it will carry out special police functions directly (investigation of some special and certain offences/crime) across the whole country. As to the central command of the Patrol Police, it will coordinate and control patrol police throughout the country and at the same time it will carry out special police functions on central highways (to secure traffic safety) and public places (to preserve public order). Regional Police Headquarters will coordinate and control the police work in regions but will not carry out the police function directly.

At the operational i.e. implementation level, police stations will be authorized to carry out police functions directly, tasks such as preserving public order, detecting and investigating crimes. 70-80% of police (both Patrol and Criminal) staff will be employed at police stations. It is planned that one person (the Head of Regional Police) will

² For a detailed explanation please see the relevant organizational chart at the end of this chapter.

be responsible for the supervision and coordination of the main units (patrol and criminal) due to the interests of the police as a united structure. The institution of 'District Police Officer' will be established. District officers will be Patrol Police employees that will have a specific operating area. A police officer with good relations with the population should fulfil the function of a district police officer.

Within the system, police activities will be controlled by general inspection activities as well as by means of other independent bodies. In order to establish a control system for the existing police activities the principles that procedures will be transparent and independent, and that citizens' can submit individual complaints will be ensured. Moreover, on the basis of the agreement between the MoI and the Ombudsman, the representatives of NGOs and collaborators of Ombudsman's office will conduct monitoring of detention facilities. This certainly creates for the transparency of police work and for revealing legal violations. Generally, police reform in Georgia will be conducted through a process starting from structural aspects through to operational matters under the supervision of an inter-agency body, with the priority for implementing measures with tangible and immediate results. There is no adequate system established to receive the community concerns. Complaints offices should be created at all (strategic, tactical and operational) level to deal with the citizens interests.

Brief Description of the Challenges and Main Political Factors Affecting Reforms

The Georgian Government which swept to power under the banner of democracy faces challenges to its human rights record. Reports of police brutality have continued. Several reports from local NGOs indicate allegations of physical abuse, torture, forced confessions, and the fabrication or planting of evidence and inhumane and life-threatening prison conditions³. The Government has continued efforts to improve its uneven human rights record. Local law enforcement bodies especially the MoI has initiated criminal cases against several high ranking police officers charging them for unlawful actions against citizens but serious problems still remain. According to NGOs and the mass media at the lowest level security forces continue to torture, beat, and otherwise abuse detainees. There were lengthy delays in trials and prolonged pre-trial detention remained a problem.

Law enforcement agencies and other government bodies have occasionally interfered with the citizens' right to privacy. Incompetent judges seldom displayed independence from the executive branch, leading to trials that were neither fair nor expeditious. Moreover, Georgia's civic sector and opposition groups doubt that the partisan background of the new law-enforcement leaders will allow them to stay unbiased and independent during sensitive cases. For example, human rights NGOs have protested a recent decree by Justice Minister Giorgi Papuashvili that prohibits NGOs from monitoring the penal system. At

³ Human Right Watch/Georgia/Report/2005.

the same time some pro-governmental NGOs (Liberty Institute) are blaming authorities for making deals with corrupted functionaries. The basis for the allegation is the draft bill on 'Property Legalization and Non-Declared Fiscal Duties' prepared by the government. Opponents of the bill believe that the draft law should not provide amnesty for high ranking officials, including former governmental officials of Shevardnadze's regime. They describe the draft bill as not of amnesty but of 'amnesia'.

Already facing heavy criticism for its treatment of human rights issues and respect for political plurality (Georgia is in the forefront of media freedom by passing some of the world's most liberal laws on defamation in July 2005 that decriminalized libel and slander, meaning that journalist no longer have to fear jail time in case they are accused of either) the Georgian government receives serious criticism for its record on access to information and press freedom. While Georgia's legal status won praise, media analysts have expressed serious concern over how the laws are enforced and how the government respects media freedom in practice.

Conclusion

To end, Georgia's 'public security' sector stands on an irreversible path of democratic development. Police reform is one of the priorities of the government. The transition process of the Ministry of Interior and Internal Troops from old Soviet model towards that of modern police and other armed forces, based on international standards, is progressing and that takes a major effort. The formation of the Patrol Police made it clear that the government not only shows the will for reform but is also taking real and active steps in the direction of total changes. These positive changes would have been impossible if not for the great will of the political leadership; but above-mentioned reforms should not be fragmentary and limited to certain separate spheres. It is necessary to create a united and comprehensive strategy for the development of a police system that will be directed to its perfection and recovery, and to set up a common and clear vision determining the model of the system that shall be developed after the reforms.

The main domestic challenges facing the Georgian MoI are to sustain the current pace of reforms and turn promises into reality. Everybody understands that this is a hard job because the country's institutions have been "hollowed out" over the years. Georgia proclaimed its will to reform the law enforcement agencies according to international standards. With all the security threats and long-term policy plans as they are, support for the local law enforcement infrastructure and development has been amazingly high; although problems of modernization are said to be the main obstacle for the reforms. Notwithstanding the commitment of the government to pursue reforms in this field we should believe that uncoordinated and unplanned activity of the governmental structures in this direction is the root of the problem. The well organized, clear and coherent policy is still lacking especially in terms of security sector reform(s).

Reformist and elected civilian authorities still maintain inadequate control of the law enforcement and security forces. In particular, representatives of the MoI and the Prosecutor's Office are blamed for committing serious human rights abuses. Senior government officials openly acknowledged serious human rights problems, especially those linked to law enforcement agencies, and have sought international advice and assistance on the necessary reforms. However, while structural reforms designed to improve respect for human rights have continued to be implemented, there have been no profound change in the practices of the law enforcement agencies beyond the new Patrol Police.

The Georgian Parliament has instituted wide-range political reforms supportive of higher human rights standards, including religious freedoms enshrined in the constitution. However, the Parliament has failed to make any decisions independently without instructions from the executive authorities despite its key function to act as a check on the executive body. Critics of present administration also claim that authorities are applying the law selectively in the on-going anti-corruption drive, arresting and punishing political enemies while leaving supporters untouched. Those taken into custody have been subjected to police abuse, human rights advocate say. It should be noted that unfortunately, the current law does not allow the Ombudsman's Office to organize any investigative activities and limits its powers to informing other governmental bodies about alleged violations.

The preliminary conclusion that many in Georgian society are drawing about the new administration's performance is that the state is governed more by the law of the ruler, rather than by the rule of law. A lack of transparency in the government's operations is, likewise, prompting people to believe that instead of cleaning up corruption the government is merely redistributing the loot. This mood could prove tragic for Georgia, for it distracts from what is still a tremendous opportunity for the country to achieve its stabilization goals.

Notwithstanding all of these, the officials from the Ministry of Internal Affairs have shown their interest towards changes and reform, and this was assessed as being an excellent basis for further reform progress in Georgia. However, a coherent approach to solve the current problems and to pursue democratic changes is still very much needed.

Despite the structural and procedural reforms implemented in policing organizations across the country, the overall results are not very satisfactory; especially when one takes into account the views of citizens and crime victims. In spite of the reported high rate of public confidence and satisfaction in the police, the reluctance to report crime still prevails along with the generally elevated fear of crime and feelings of insecurity throughout the country. It is very obvious that there is an urgent need to improve police performance in crime prevention, community policing and control and to change the relationship between the police and local communities.

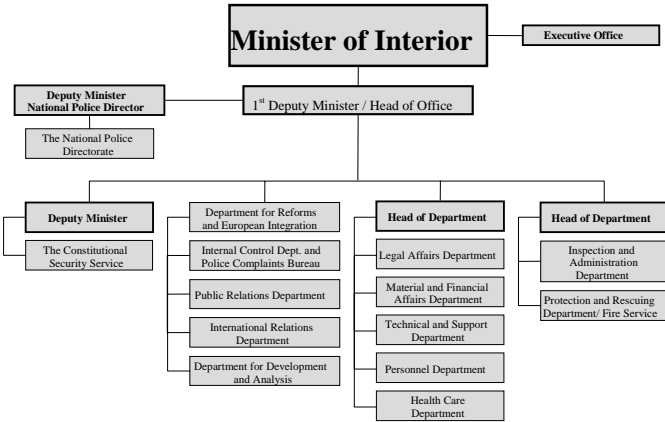
On the way of democratic policing there are several serious decisions should be made and new democratic institutions such as a 'Police Union', and associations such as those for policewomen. There

are several counties in Europe and also in the United States of America where 'Police Chaplaincies' exist. Taking into consideration strong Georgian religiosity, it maybe advisable to create a National Police Chaplaincy. The Minister and all supervisors down to district level should have a 'Reception/Consulting Day' once a month, for complaints of citizens and police officers. To increase transparency a 'National Police Day' at national level and 'Open Days' at Regional and District (unit) levels could be organize. To have the Georgian Police accountable to their citizens, a regular (annual) reporting system, need to be established. Once a year the Director of the National Police Directorate should report to the Parliament and Regional, District and Station level to the local (town, village) councils. For the nomination of police chiefs on difference level (including the National Police Director) the same councils need to be consulted with.

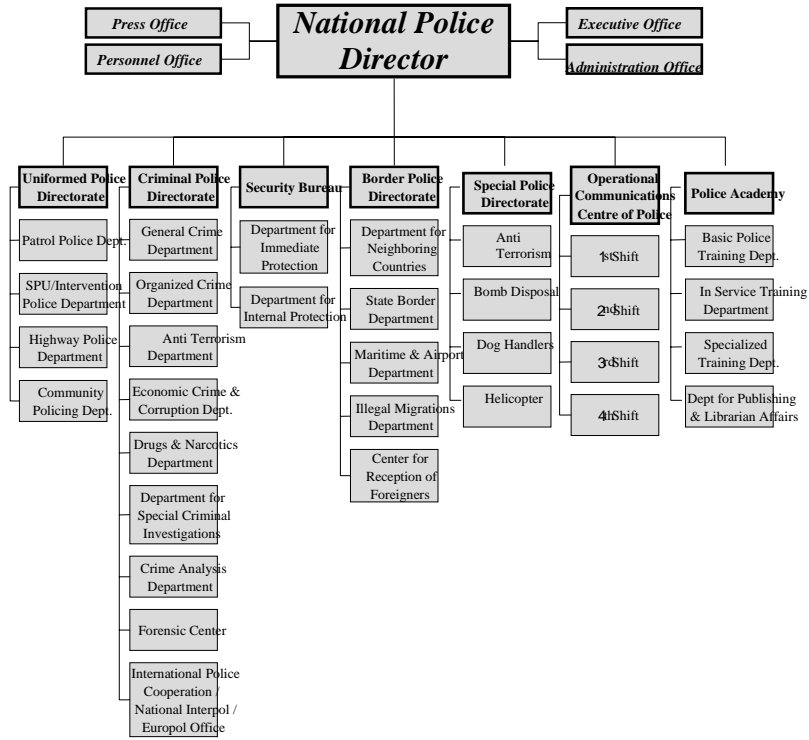
The record of the past fifteen years indicates that the transformation from authoritarian to democratic policing is not something that can be achieved quickly, but is a long-term process requiring years of reform and investment.

ORGANIZATIONAL STRUCTURE OF THE MINISTRY OF INTERNAL AFFAIRS

MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

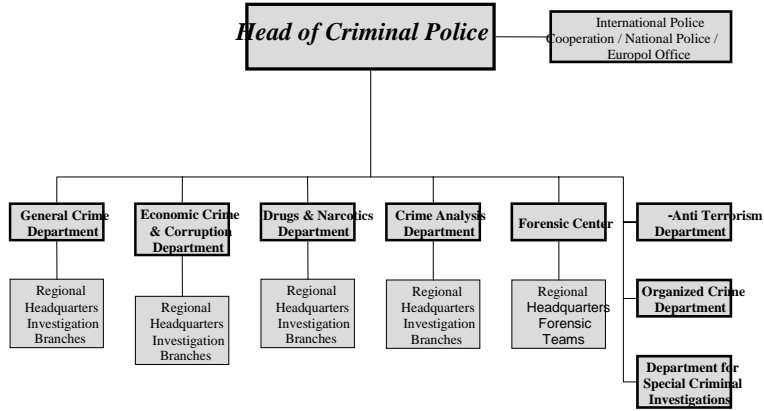


THE NATIONAL POLICE DIRECTORATE



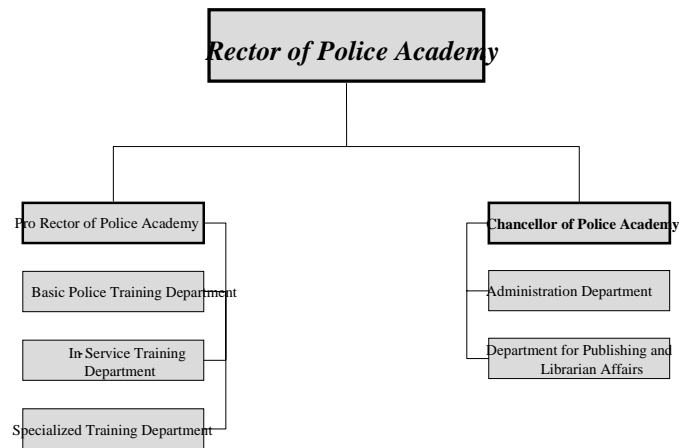
ORGANIZATIONAL STRUCTURE OF THE CRIMINAL POLICE DIRECTORATE

CRIMINAL POLICE DIRECTORATE

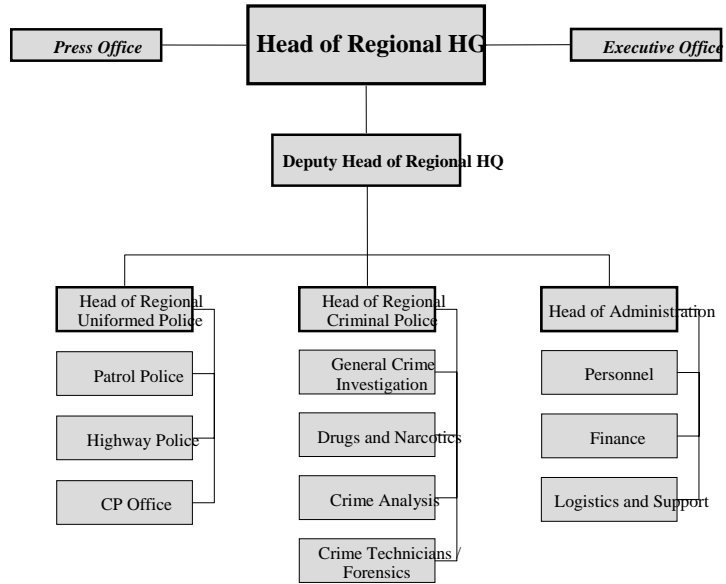


**ORGANIZATIONAL STRUCTURE OF POLICE ACADEMY OF
GEORGIA**

POLICE ACADEMY



REGIONAL POLICE HEADQUARTERS



Chapter 13

Georgia: An Emerging Governance - Problems and Prospects

Dov Lynch

Introduction

Even if the Republic of Georgia has existed independently since 1992, it remains logical to discuss security sector governance as an *emerging* question. For much of the early 1990s, applying the notion of ‘security sector governance’ to a state at war and barely on its feet stretched the concept too far. The Georgian state embarked on a process of consolidation from 1995 onwards, initiated with the approval of a Constitution, and Georgia experienced thereafter several years of growth and relative political stability. In the late 1990s and early 2000s, the main lines of security sector reform were formulated on paper, and limited changes were effected in the Ministry of Defence and the armed forces. However, as a whole, security sector reform remains an emerging concern in so far as most of the work remains ahead for the new Georgian leadership in terms of addressing a distorted legacy, clarifying the scope of problems and prioritising amongst them, sketching out a coherent programme and implementing it.

Two points should be noted from the outset. The first concerns the security sector in Georgia, the number of the agents involved and the nature of their interaction. Many have argued that the notion of ‘security sector reform’ is useful in drawing attention away from more limited understandings of military reform. Traditional discussions of civil-military relations tended to focus on the dyadic relationship between civilian political structures and a professional military agency. By contrast, reforming the security sector entails a more complex understanding of these two poles and adds new actors to the picture¹. The concept takes in all of the state bodies that are authorised to use force legitimately, including not only the armed forces but the Border Guards, ‘third forces’ such as the Gendarmerie, and also the intelligence and security agencies. The concept encompasses all of the civilian management and oversight bodies, the judiciary, as well as relevant sectors of civil society. The concept addresses complex relations between a wide range of agents².

¹ See, for example, the *Security Sector Reform Policy Brief*, put out by the British Government, (jointly by DFID, the Foreign Office and the Ministry of Defence: 2003). Available at: http://www.gfn-ssr.org/edocs/gfn027_ssr_policy_brief.pdf

² On general considerations of security sector reform and questions of governance, see Michael Brzoska, *Development Donors and the Concept of Security Sector Reform* (DCAF:

The Georgian security sector is all the more complex. The subject concerns first the security sector of the Republic of Georgia, that is the armed forces, the border services, the interior troops of the Ministry of Interior and the Ministry's special purpose forces, the Ministry of Security, the State Intelligence Department, and the State Safety Service, as well as the relevant parliament committees, the structures of executive office and the judiciary. Second, a comprehensive view of the security sector must include the structures under the control of the separatist authorities in Abkhazia and South Ossetia as well as the force structures of the Autonomous Republic of Adjara. Third, one should include also the paramilitary forces that have been active on Georgian territory, mostly near and in the Gali region and in limited numbers in the Pankisi Valley. Fourth, a full picture should take account of the presence of foreign security forces that impact on the functioning of Georgia's security sector: the presence of Russian armed forces in bases on Georgian territory, the CIS peacekeeping operation along the Inguri River, the limited presence of US forces in the Georgia Train and Equip Programme (GTEP), and also the deployments by the UN and the OSCE in Abkhazia, South Ossetia and on Georgia's border with Chechnya. Viewed from this perspective, the complexity of the security sector in Georgia seems nightmarish, resembling less a bipolar world and more a shattered universe.

A second point concerns the nature of 'governance' regulating relations between agents in this security sector. It has become accepted that traditional civil-military relations are never fixed once and for all but fluctuate; this is all the more true for governance in a complex and fragmented security sector. Relations resemble more a game, with a set of actors that is more or less clearly defined and regulated by rules that are more implicit than explicit, which may evolve rapidly and in such a way that the nature of the game changes and new actors are included. As will be discussed, Mikheil Saakashvili is struggling with a particularly distorted game that emerged under Shevardnadze, characterised by fragmented and deeply under-funded power agencies, subjective forms of control over these agents, weak civilian oversight, intense corruption, no legitimacy in society at large, and the absence of a concept of overall reform.

Reform is under way, with considerable changes, by the end of 2004. The Interior Forces, a Soviet-type inheritance; are being subordinated to the Defence Ministry; the old domestic Security and Interior ministries are to be merged into a new Ministry of Police and Public Security; a new Counter-Intelligence Service would be set up and the external intelligence service would be removed from the control of

November 2003); Dylan Hendrickson, *A Review of Security Sector Reform* (Conflict, Security and Development Group, Working Paper, Centre for Defence Studies: London, September 1999) <http://csdg.kcl.ac.uk/Publications/assets/PDF%20files/Working%20paper%20number%201.pdf>; and Neil Cooper and Michael Pugh, *Security Sector Transformation in Post-Conflict Societies* (Conflict, Security and Development Group, Working Paper, Centre for Defence Studies: London, February, 2002). <http://csdg.kcl.ac.uk/Publications/assets/PDF%20files/Working%20paper%20number%205.pdf>

the Security Ministry in Tbilisi and in the future would report directly to President Saakashvili. The defence budget will be considerably increased to reform the Armed Forces. This chapter will not examine the state of each of Georgia's power agencies, nor the role of elites and civil society, as these questions have been addressed in previous chapters. The focus of this chapter is four-fold. First, the chapter will delineate the objective difficulties that affected Georgia's security sector since 1992 in order to clarify general dilemmas. A second part examines the nature of the security sector game as it had crystallised by the last years of the Shevardnadze presidency. Third, the chapter explores the strengths and weaknesses of the first steps taken by the new leadership in 2004 to change the rules of the game. The last section proposes some general principles for reforming the Georgian security sector.

Difficulties and Dilemmas

The new Georgian state, and its leaders, has faced a number of objective obstacles that render security sector reform inherently difficult. It is worth examining these before turning to subjective factors that impacted on security sector governance by the late years of Shevardnadze's leadership.

First, Georgia has been undergoing a process of multiple transformations since 1992. The principal intellectual and policy prism for understanding developments in Georgia (as in the former Soviet Union as a whole) has been that of 'transition'³. According to Thomas Carothers, the transition paradigm was based on several core assumptions⁴. The first is that a country is, indeed, in transition from dictatorial rule to democracy. In this approach, the process of transition itself is considered more important for the outcome of change than the structural factors of a particular state – previous experience with democracy, ethnic homogeneity, and level of economic development. In this perspective, *democracy* building – a focus on the nature of ruling regimes – is given more importance than *state* building.

In fact, the notion of transition is too light to characterise the overwhelming process of *transformation* thrust on Georgia after the Soviet collapse⁵. Many of the assumptions underpinning the notion of a transition are misleading in the Georgian case. Georgia's transformation has encompassed the building of new institutions, new state institutions, new borders, new identities, new foreign policies, and new military systems. Change has occurred at the economic, political, external policy and national levels on a scale that is far greater than the 'transitions' that occurred in southern Europe in the 1980s or in Latin America at various periods since the 1960s.

³ This idea is developed in the author's 'A Regional Insecurity Dynamic,' in Dov Lynch (ed.), 'The South Caucasus: A Challenge for the EU', *Chaillot Papers*, No. 65, December 2003), p. 10-12. Available at: <http://www.iss-eu.org/chaillot/chai65e.pdf>

⁴ Thomas Carothers, 'The End of the Transition Paradigm,' *Journal of Democracy* Vol. 13, No. 1, 2002, p. 5-21. Available at: <http://www.journalofdemocracy.org/articles/Carothers-13-1.pdf>

⁵ Archie Brown develops this argument in his book *The Gorbachev Factor* (Oxford University Press: Oxford, 1997).

Moreover, Georgia may not be moving towards democracy. In Carothers' words, states such as Georgia 'have entered a political grey zone. They have some of the attributes of democratic political life [...] Yet they suffer from serious democratic deficits, often including poor representation of citizens' interests, low levels of political participation beyond voting, frequent abuse of the law by government officials, elections of uncertain legitimacy, very low levels of public confidence in state institutions and persistently poor institutional performance by the state'⁶. The problems that affect democratic standards in Georgia may not be transitory but enduring features. Georgia has developed bits and pieces of the institutional façade of democracy but its substance is not fully realised.

Viewing developments as 'transformation' and not 'transition,' places the challenge facing the Georgian leadership in the correct perspective. Far more than a simple 'transition,' Georgia has experienced a transformation from its previous embodiment as a Soviet Socialist Republic inside the USSR – in economic terms, from a command economy to a market-led economy; in politics, from one-party authoritarian system to multi-party pluralist politics; in security thinking, from the defence of the proletarian revolution to the defence of an emerging state; and in federal terms, from a multi-national Soviet federation to new relations between Georgia's regions and republics. In these circumstances, security sector reform is but one priority amongst many pressing challenges.

Second, the Georgia that emerged in 1992 inherited a mixed legacy from the Soviet Union with regard to its security sector. In some respects, Georgia started from a blank slate. Tbilisi had no armed forces and, thus, faced the challenge of building forces from scratch, including a General Staff structure and ministerial organisation. The new leadership in Tbilisi was also missing other components of force that would have allowed it to ensure control over its borders and air space – Tbilisi had no border forces and no air defence structures. What's more, the new Georgia lacked indigenous training institutions with which to build a new officer corps. The Georgian economy also only inherited minimal and incomplete parts of the integrated Soviet military-industrial complex.

The new leadership in Tbilisi also inherited a heavy Soviet legacy that continues to weigh over it. The later years of Mikhail Gorbachev's leadership saw the collapse of the prestige and legitimacy of service in the armed forces throughout most of Soviet society. The conditions of service, combined with budding nationalism in many parts of the USSR, eroded the foundations of popular support to what had been a key Soviet institution since the Second World War. There was an initial brief period of nationalist euphoria in Georgia in 1991-1992, during which a number of young Georgian men volunteered for service in the new National Guard structure. Thereafter, very quickly, the lack of prestige and legitimacy associated with military service re-emerged throughout Georgian society. Difficult conditions of service explain

⁶ *Ibid.*, pp. 9-10.

much in the high figures of draft evasion and desertion throughout the 1990s. These figures also highlight a more profound de-legitimizing process that occurred in Georgian society with regard to the new state as it emerged under Shevardnadze.

In addition, Tbilisi inherited a number of former Soviet structures and large numbers of Soviet-trained personnel. The Georgian Ministry of Interior was created on the basis of the previous Soviet structure, and thereby inherited a bloated, largely inefficient and heavily corrupt staff, as well as the worst of Soviet recruitment practices in terms of nepotism and personal connections⁷. The Ministry of State Security was formed on the basis of the former Soviet KGB staff and structures. These legacies created distorted structures that were resistant to change. The heavy Soviet connection also meant a predominant Russian influence in the Georgian power ministries, especially in the first years of their existence⁸.

The third objective factor conditioning the Georgian security sector has been the experience of war in the early 1990s and the enduring possibility of renewed conflict. In the early 1990s, nascent Georgian forces were involved in a small-scale conflict in South Ossetia, a war in Abkhazia and recurrent episodes of civil war. Without established force structures at the time, the government in Tbilisi improvised in a hodgepodge manner. The war in Abkhazia was fought not only by Georgian National Guard units, then led by Tengiz Kitovani, but also by the paramilitary forces of the *Mkhedrioni*, commanded by the convicted criminal Jaba Ioseliani. The chaotic make-up of forces deployed in the conflicts distorted the ends of Georgian policy, undermining in fact the notion there was a 'Georgian' state policy at all in a cocktail of crime, improvisation and confusion.

The experience impacted on the Georgian security sector in a number of ways. Certainly, defeat in the conflicts in South Ossetia and Abkhazia has not had a positive or stimulating effect on Georgia's security forces. For the most part, defeats on the battlefield have been attributed to Russian intervention and not to the core weaknesses of Georgia's forces, their tactics and operational doctrines and failings of command and control. As a result, there has been no systematic learning process undertaken within the security sector on the reasons for the failures of the early 1990s and how to address these failings. Moreover, the battlefield defeats have done nothing to increase the prestige of the security forces in the eyes of Georgian society, exacerbating their crisis of legitimacy.

In addition, none of the conflicts has been settled. Throughout his leadership, Shevardnadze was always careful to retain the use of force as a policy option towards settling these conflicts. Tbilisi never

⁷ See the discussion of David Darchiashvili, 'Georgia: A Hostage to Arms,' in Anna Matveeva and Duncan Hiscock (eds.), *The Caucasus: Armed and Divided: Small Arms and Light Weapons Proliferation and Humanitarian Consequences in the Caucasus*, (Saferworld: London, April 2003), p. 69-102.

⁸ Russian influence was especially heavy with the Ministry for State Security led by Igor Gongadze, and with the Ministry of Defence led by Vardiko Nadibaidze, in the early and mid 1990s.

ruled out the choice of renewed war⁹. Even for a well-organised government with the best of intentions, security sector reform in conditions of active or imminent conflict is a challenge. Not least, because Georgian defeats in these conflicts has left large swathes of territory beyond Tbilisi's control.

A last factor impacting on security sector governance concerns Georgia's geopolitical environment and the role of foreign states and the international community. Put bluntly, Georgia's security environment is not conducive to coherent and poised reform. Internally, Tbilisi inherited a weak federal structure that contained ethnic minorities with their own autonomous agencies of representation as well as regions beyond Tbilisi's control, such as the Autonomous Republic of Adjara. These internal security challenges cross over with porous and weakly controlled borders to render Georgia vulnerable to wider Caucasian security challenges. The spill over of the second conflict in Chechnya into Georgia's Pankisi Valley is a case in point. On a seemingly more positive side, the exploitation and transportation of the energy reserves of the Caspian Sea has also complicated Georgia's security position, by attracting significant and conflicting external attention.

Since 1992, Russian-Georgian relations have gone from bad to worse back to bad again. All governments in Moscow have stressed Russia's interests in Georgia, and many of them have made use of a range of policy tools at their disposal to advance these interests. These tools of leverage include Russian military bases, the Russian peacekeeping operations in Abkhazia and South Ossetia, as well as control of strategic sectors of the Georgian economy. At the same time, since 2001, Georgia has welcomed U.S. troops engaged in GTEP and also heavy Turkish military engagement. Shevardnadze's attempt to balance Georgia's *foreign* policy direction through a policy of ambiguity and multiple approaches has become reflected *inside* the country itself, embodied in the presence of foreign troops from states with different, sometimes openly conflicting, interests.

Moreover, the focus of foreign actors engaged in security sector reform in Georgia has been narrow. As Georgia's most important foreign partner, the U.S. has provided assistance since 1998, in its 'Border Security and Law Enforcement Programme,' to the Georgian border and law enforcement agencies. However, Washington has dedicated most of its attention and resources since 2002 to the reform of the Ministry of Defence and armed forces. Patterns of security sector assistance by members of the North Atlantic Treaty Organisation (NATO) have also concentrated on the traditional military structures. As a result, international assistance has left aside arguably more important security forces, which have not received the same levels of assistance nor benefited from the similar attention to push through reform. These circumstances highlight the point also that security sector reform has

⁹ For example, Shevardnadze's last Minister for State Security, Valeri Khaburdzania declared that Tbilisi had made contingency plans for the use of force to resolve the conflict with Abkhazia if the separatist region exported terrorism and organised crime into Georgia proper; see 'Georgian State Security Minister says Use of Force in Abkhazia "Theoretically Possible"', *Civil Georgia* (26th June 2003). Available at <http://www.civil.ge/eng/article.php?id=4454>

been left to the purview of individual states. Some actors of the international community, such as the United Nations (UN), have no mandate for such activities, whereas others, such as the EU, have been very reluctant to assume such responsibilities. A gap has emerged in international assistance to security sector reform in Georgia.

At a wider level, pressures on Georgia from the international community have been contradictory. Shevardnadze declared a desire to join NATO at some point in the future. In addition to healthy security sector governance, NATO membership requires that a 2% of GDP be devoted to the security sector spending. While Georgian membership of NATO is very far off, Tbilisi has consistently received the message that it would have to increase spending in order to reform its security sector. At the same time, Georgia has faced constant pressure, especially from the late 1990s onwards, to reduce government spending as a whole, and defence expenditure in particular. For good reason, one might argue: defence spending is not a high priority in a country with such levels of poverty and such development needs. For example, the International Monetary Fund (IMF) Mission in July 2003 recommended that Tbilisi cut spending by USD 44 million, of which security expenditure represented USD 4.6 million¹⁰. While reducing government spending makes sense for economic reasons, the cuts reinforced a vicious circle in already chronically under-financed security agencies.

Three dilemmas stem from the objective challenges affecting security sector reform in Georgia¹¹. First, how can a state undertake coherent and fitting security sector reform in circumstances of transformation, when under-financing is a chronic condition? Second, how can security sector reform be undertaken in a state where renewed conflict is a constant possibility? Third, how can security sector reform be pushed through coherently in a state without control over all of its territory? These dilemmas have plagued security sector governance in Georgia since 1992.

Rules of the Game under Shevardnadze

In addition to the objective difficulties, a number of subjective factors came to determine the nature of security sector governance under Shevardnadze. The rules of the security sector game as they emerged under Shevardnadze included both internal and external security actors with the overall implicit objective of retaining the regime in power. The main lines of security sector governance - if the term is appropriate - were determined by the single objective of protecting the Shevardnadze leadership from either internal or external challenges. At periods when the Georgian president was himself associated with the country's future, such as after the civil war in 1992 and during the Abkhaz conflict in 1993, the objective of retaining personal power coincided with the

¹⁰ 'Government to Cut Defence Funding,' *Civil Georgia*, 9th July 2003. Available at: <http://www.civil.ge/eng/article.php?id=4535>

¹¹ See also the discussion of S. Neil MacFarlane, 'Visions of the Caucasus,' in *Security Sector Governance in the South Caucasus: Challenges and Visions* (DCAF Conference Proceedings: Reichenau, 21-24 November 2003).

public good of protecting the Georgian state. By the early 2000s, however, the objectives leading much of government policy and the generic public good of the Georgian state was dis-articulated. There was no explicit agreement between the main actors under Shevardnadze's leadership on rules of conduct. Rather, the game was a diffuse and implicit universe of actors and expectations, which was based by on four unwritten rules.

First, the distinction between formal structures and informal realities must be made. Under Shevardnadze's leadership, Georgia acquired formal structures for security sector governance in terms of the constitutional definition of the roles of the executive and the legislature in determining and monitoring policy. From 2001 onwards, the Georgian government undertook a number of policies to reform different parts of the security sector. For the Ministry of Defence, the process had started earlier in 1999 with the creation of the International Security Advisory Board (ISAB) to provide strategic guidance to the reform of the armed forces (but not only)¹². In late 2001, Shevardnadze sacked the top leadership of the deeply corrupt Ministry of the Interior and the Ministry for State Security, and in December decreed the creation of an Inter-Agency Commission, under the National Security Council, for the purpose of formulating reform concepts for the whole security sector, and especially the Ministry of Interior and the state security services¹³. In 2001, the Georgian government also adopted the 'Programme Project Budgeting System' to establish a more clear and transparent defence budgeting process.

In practice, Georgia's security sector remained unreformed. As previous chapters in this volume make clear, the Ministry of Interior and the Ministry of State Security, despite having new and supposedly reformist ministers, went untouched. The Inter-Agency Commission produced reform concepts by 2003 but they were not officially endorsed¹⁴. Changes did occur in the Ministry of Defence and the Border Guards service, but mainly at the persistent insistence of foreign states. The result in the armed forces was an institution on two tracks: the great bulk of the armed forces remained largely unreformed, under-financed and untrained, while small parts of the armed forces received specialist attention from foreign states, and started operating on new recruitment standards and operational doctrines. Moreover, despite having recognised the need for a comprehensive Georgian Security Concept since 1996, Shevardnadze never pushed the policy beyond the declarative stage¹⁵. As discussed in other chapters of this volume, the

¹² *Report to the National Security Council of the Republic of Georgia*, drafted by Sir Garry Johnson (ISAB: April 1999).

¹³ See the discussion by David Darchiashvili and Ghia Nodia, *Power Structures – The Weak State Syndrome and Corruption in Georgia* (Discussion Paper, No. 5, 'Building Democracy in Georgia,' IDEA: May 2003).

¹⁴ See *The Concept of Reform of the Security and Law Enforcement Services of Georgia* <http://www.supremecourt.ge/english/Conception.pdf> and *The Concept of Reform of the Ministry for State Security for Georgia*, which were made public in 2003. Available at: <http://www.supremecourt.ge/english/Annex12.pdf>

¹⁵ See the discussion of Robert L. Larsson, *Georgia's Search for Security: An Analysis of Georgia's National Security Structures and International Cooperation* (Georgian Foundation for Strategic and International Studies, Discussion Paper No. 1: Tbilisi, 2003),

Shevardnadze leadership had become a system of rule by the early 2000s that was based on the crossover of public and private interests and the cooption of powerful groups of elites. Serious reform of Georgia's security sector was never envisaged, as it would have challenged the foundations of the ruling order.

Moreover, given multiple assassination attempts on Shevardnadze's life and the political role that bits and pieces of the power ministries had played, President Shevardnadze saw good reason for not challenging the security structures that had emerged and for not seeking to clarify lines of duplication, in order to fragment and divide the security sector. Different parts of the security sector moved in and out of presidential favour over the course of Shevardnadze's rule.

A second implicit rule to the game concerned finances. Under Shevardnadze, the power ministries were consistently under-financed. This under-financing was firstly a response to the needs of transformation, where security spending is not a high priority, and also from the pressures of the IMF. Under-financing also highlighted a decision taken by Shevardnadze not to attribute significant amounts of money to the power ministries to avoid building more coherent and combat-capable structures for fear of the role they may acquire on the domestic stage. The blind eye turned by Shevardnadze to endemic corruption throughout the security sector offset deliberate under-financing. Endemic corruption was a predictable result of these circumstances, as the lower levels of security bodies developed survival tactics to offset pittance salaries that were never paid on time. At the higher level, however, corruption symbolised the cooption of powerful elites into a regime that was itself segmented and corrupt.

A third unwritten rule of the game concerned the settlement of the conflicts in South Ossetia and Abkhazia. After the failure to achieve the restoration of territorial control by force in the early 1990s, the Georgian leadership developed a *non-policy* to the settlement of the conflicts. The non-policy had several dimensions. First, President Shevardnadze was never willing to grasp the nettle of defeat suffered on the battlefield or to entertain the possibilities of serious compromise with Abkhazia or South Ossetia. In addition, Shevardnadze remained fixated on the notion of an external *deus ex machina* to solve the conflicts on Georgian terms. The external saviour of choice varied at different points over the 1990s. In 1994, faced with very limited options, Shevardnadze favoured Russia – the Georgian president approved the deployment of Russian peacekeeping operation and allowed Russia to retain four military bases in 1994 with the implicit understanding that Russia would not only stop providing support to the Abkhaz but help Tbilisi restore control over its lost territory¹⁶. Later in the 1990s, Shevardnadze's hopes fixed on military assistance by the U.S. and other members of NATO. The launch of GTEP was presented by Tbilisi as a

and Robert L. Larsson, 'Georgia's Missing Security Compass,' *Central Asia and Caucasus Analyst* (July 2, 2003).

¹⁶ On the misunderstood bargain between Moscow and Tbilisi, see the author's *The Conflict in Abkhazia: Dilemmas in Russian 'Peacekeeping' Policy* (Chatham House Discussion Paper No. 77: London, 1998).

first step to the restoration of Georgian territorial integrity. The fixation on an external saviour attenuated any urgency in Tbilisi to accept compromise in order to settle the conflicts.

At the same time, Tbilisi sought to isolate the separatist region of Abkhazia through 1996 trade restrictions by the Commonwealth of Independent States (CIS) and to pressure the separatist authorities through tacit support to the activities of the paramilitary groups, the *White Legion* and the *Forest Brothers*. The objective was to delay until the Georgian government was strong enough to restore control by force or until it had secured an external source of support willing to do so. Certainly, comprehensive settlement of the conflict with Abkhazia was never seriously envisaged by Tbilisi, despite years of Georgian participation in the negotiations under the UN-led 'Geneva Process'. Shevardnadze's support to the Abkhaz government-in-exile, led by Tamaz Nadareishvili, was another facet of the non-policy of settlement. These structures were created by Shevardnadze to offset pressures *inside* Georgian politics and not to advance conflict settlement, which their existence in fact undermined.

A fourth rule of the game concerned the absence of the Georgian Security Concept. Despite internal and external pressures to clarify Georgia's main foreign policy direction, the main threats to Georgian security and responses to these, Shevardnadze avoided approving a Georgian Security Concept. A first reason for this avoidance was the former president's desire to avoid clarifying the shape of Georgia's security sector and undertaking comprehensive reform. Secondly, Shevardnadze sought to avoid clarifying definitively Georgia's foreign policy orientation in order to not create external threats that might challenge his domestic hold on political power. As a result, Shevardnadze never fully engaged Georgia either on a pro-Western direction, on the lines followed by the Baltic states, or on a pro-Russian direction, on the lines that Armenia has taken. As analysed in this volume, Shevardnadze's policy towards Russian basing rights fluctuated according to calculations of the need to sustain the foundations of power.

The results of this distorted game were four fold. First, by 2004, Georgia's security sector remained largely unreformed. The sector is fragmented, institutions have overlapping responsibilities, and subjective forms of political control predominate. Second, corruption has become endemic throughout the security sector. Although his words must be understood in the right political context, the description by Saakashvili's new Ministry of Interior, Giorgi Baramidze, of state of affairs he inherited is telling: 'The system was 100 per cent built on corruption. Every single relationship inside this ministry and all relations between the ministry and the public were based on corruption. This ministry was involved in the drug business, weapons smuggling, extortion, and kidnapping',¹⁷. Third, as a whole, the security agencies had poor legitimacy in Georgian society. The conditions of service were terrible

¹⁷ Interview of Baramidze by Ken Stier, *Eurasia Insight* (December 19, 2003) on <http://www.eurasianet.org> 'Behind a desk, Georgian Official Promises War on Corruption' http://www.eurasianet.org/departments/qanda/articles/eav121903_pr.shtml

for young conscripts, thereby increasing draft evasion, and many security agencies had developed predatory relations with society as a whole. Finally, the ambiguity of Georgia's external direction was being played out internally through the presence of foreign security forces and the non-settlement of Georgia's conflicts.

Saakashvili's First Steps

In January 2004, Mikhail Saakashvili did not inherit a blank slate but an enfeebled state with a distorted, unreformed and heavily corrupt security sector and a disenchanting and impoverished society. The new leadership has sought to redraw the game as it emerged under Shevardnadze. The wave of high-level arrest and the countrywide crackdown on criminal groups has been the most visible sign of new ambitions. With regard to security sector governance, Saakashvili has taken steps at three levels.

First, both Saakashvili and Zurab Zhvania, the first Prime Minister, who died in a tragic accident, declared security reform a priority of the new government¹⁸. Tbilisi has made clear its determination to implement the reform of the security sector, which had remained declaratory under Shevardnadze. Personnel changes have 'civilianised' the leadership of the power ministries, and substantial reductions are planned in each of them. Lines of duplication will be eased through the incorporation of the Border Guard service into the Ministry of Interior and its reform to assume a greater policing role in a Ministry, which is itself moving towards more preventive and policing functions. As such, the Interior Troops will come under the control of the Ministry of Defence. Moreover, the widespread crackdown on illegal groups signals Tbilisi's will to restore a legitimate monopoly on the use of force throughout the country. So far so good.

However, these steps have also raised doubts. The personnel changes occurred quickly and with some fanfare. However, the timeframe for the comprehensive reform of the power ministries is unclear; certainly, it will be a lengthy and painful process. In addition, despite an early pledge by Zhvania to increase security expenditure to 2% of GDP, the 2004 budget saw no increase in defence spending. Even with foreign assistance to support salary and maintenance costs in the security agencies, the new government will face great difficulty in increasing defence spending in a quasi-bankrupt state¹⁹. Comprehensive reform remains therefore in some doubt, as it is always a costly process. Moreover, the constitutional changes rushed through the previous parliament in early February 2004 muddy the picture in terms of security sector governance. The strengthening of executive power in budgetary questions has weakened the overall place of the parliament in Georgian

¹⁸ See Mikhail Saakashvili's speech at the Johns Hopkins University, SAIS, Washington DC, February 24, 2004, reproduced by *Central Asia and Caucasus Analyst*; and 'Zhvania outlines Cabinet Priorities,' *Civil Georgia* (February 17, 2004), <http://www.civil.ge/eng/article.php?id=6242>

¹⁹ Saakashvili has openly admitted the budgetary constraints on the new government: 'The treasury is absolutely empty. That is why we won't be able to improve the situation in just one day,' *Civil Georgia* (January 24, 2004), www.civil.ge Saakashvili vows improvements with drastic measures <http://www.civil.ge/eng/article.php?id=6090>

politics. The vital role of parliamentary security sector oversight and accountability is certain to be affected.

Second, Saakashvili has made Georgia's external destiny clear: it lies in the closest ties possible with NATO and the EU. The appointment of the former Defence Minister, David Tevzadze, as Ambassador to NATO, presages an increased focus on formulating a credible – however long-term the plan remains at present – Membership Action Plan by the new government. Salome Zourabishvili's designation as Foreign Minister, after a distinguished career in the French Foreign Ministry, is another sign of a heavy European focus in foreign policy, in particular with the aim of developing closer ties to the EU and the possible inclusion of Georgia in the its *New Neighbourhood* Initiative²⁰.

This new thrust to Georgian foreign policy has not excluded the development of ties with Russia. Saakashvili's first foreign visit was to Russia, and he has made concerted efforts to lay out lines of concord with the Russian leadership. Most visibly, Saakashvili reversed Shevardnadze's policy to protecting the Georgian-Russian border. Shevardnadze's policy to the question of ensuring the non-passage of Chechen fighters across this border and into the Pankisi Valley was a mess; Tbilisi first refused to acknowledge the presence of Chechen fighters in Georgia or to countenance the idea of legitimate Russian concerns; then, it became clear that parts of the Georgian security forces had relations with Chechen groups in Pankisi. Saakashvili is intent on cleaning up the criminal groups active in Pankisi and cutting their links with Georgian law enforcement. Moreover, the new president has accepted the notion of joint Russian-Georgian border patrols to monitor the border, on the basis that 'terrorism is a common threat' to both countries²¹. Addressing a major Russian concern, Saakashvili stated in late January that 'from now on, all armed people who try to get into Georgia will be arrested and handed over to the countries they are citizens of'²².

Yet, uncertainties remain over key questions affecting Georgian security: how will Saakashvili address the question of the withdrawal of Russia's remaining bases? What policy does the new government have towards Russian peacekeeping in Abkhazia and South Ossetia? Answers to these questions will provide signs as to the future direction of Georgian foreign policy: either towards sustained ambiguity or towards genuine certainty of choice.

This leads to the third dimension: Saakashvili's policy towards the territories and regions that are beyond Tbilisi's control. Thus far, Saakashvili has adopted contradictory approaches to the question of Tbilisi's relationship to South Ossetia, Abkhazia and Adjara. The new president has presented the conflict with South Ossetia as a criminal

²⁰ *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbour* (Commission Communication COM(2003) 104 final: Brussels, 11.3.2003). The idea of including the three South Caucasus states in the new initiative in the medium term was given wings by the 'Rose Revolution' and demand from the region itself. The Irish Presidency will deliver an opinion on the question by the end of June 2004.

²¹ Saakashvili cited in 'Georgia, Russia to Sign Border Guard Accord,' *Civil Georgia* (February 11, 2004), <http://www.civil.ge/eng/article.php?id=6207>

²² *Agence France Presse*, January 27, 2004.

problem, which can be resolved through law enforcement methods²³. Tbilisi has ruled out the use of force in Abkhazia, reined in the *Forest Brothers* and the *White Legion*, and forced out the deeply corrupt Tamaz Nadareishvili from Abkhazia-in-exile. While positive, these policies do not alter the essence of Georgia's past policy of delay and non-compromise. Saakashvili hopes that the installation of a more effective blockade against Abkhazia, by cracking down on Georgian criminal groups involved in smuggling in Gali and by enforcing strict control over trade by sea, will alter Sukhumi's policy and force the separatists to compromise. On the central question of political status, the new president has only repeated Shevardnadze's previous offer of the 'broadest possible autonomy' – an offer that the Abkhaz have consistently rejected.

Moreover, Saakashvili has chosen the restoration of central control over the Autonomous Republic of Abkhazia as the first major test of his presidency. The government instituted a blockade against the region in the run-up to the March 2004 parliamentary elections, with an ultimatum calling for the conduct of free elections and the disarming of Aslan Abashidze's paramilitary forces, including Georgia's 25th Brigade, deployed in the regional capital of Batumi, which refused to obey the president's orders. In May, Saakashvili renewed the ultimatum for disarming forces and returning the region to Georgia's constitutional order, under the threat of dissolving the current leadership and calling for new elections.

On the one hand, Saakashvili is correct in seeking to restore the unity of the Georgia's constitutional space and the central authorities' monopoly of the organised use of violence. Under Abashidze, Abkhazia has been independent from the rest of Georgia in almost all dimensions except name. However, the use of ultimatums carrying the implicit threat of military intervention are likely to prove counter-productive not only in Abkhazia - where it could backfire - but also in future dealings with South Ossetia. Saakashvili is driven by the notion of unifying the Georgian state and nation: 'I will do my best to strengthen our country and restore its territorial integrity. This is the supreme goal of my life. The Georgian nation deserves a better future'²⁴. The conflation of the Georgian nation with territorial integrity and of the *state of Georgia* with the *Georgian nation* is worrying. In the traditional sense, Georgia is a multi-national country, with a number of important national minorities, some of which have declared independence from Tbilisi. The insistence on the Georgian nation as the defining attribute of the Georgian state was one of the causes of the conflicts that ravaged Georgia in the early 1990s.

Underlying these considerations resides more profound questions: is Abkhaz autonomy the greatest priority of the new leadership? Was this the reason for the overwhelming support provided to

²³ The Georgian government have developed plans to cut off the smuggling routes through South Ossetia and place pressure on the criminal interests that underpin the separatist region.

²⁴ Cited in 'New Leader Vows to hold next Inauguration in Abkhazia,' *Civil Georgia* (January 24, 2004), <http://www.civil.ge/eng/article.php?id=6088>

Saakashvili in January 2004? Certainly not. The handling of the Ajar crisis raises doubts about the new government's ability to satisfy popular expectations over the short term. It also throws light on the reckless gene at the heart of the new leadership – this may have been a source of strength in that it led to the 'Rose Revolution' but it may also become a fatal weakness.

Principles for Moving Ahead

The principles for moving towards healthy reform of Georgia's security sector may be divided into two categories. They can be summed up as follows. First, there are principles for the Georgian Government

The new government must sustain its push to fashion a more healthy security sector governance and move away from reliance on external support to drive reform. Reform must be comprehensive, taking in all parts of the security sector, and be driven internally. Much more than personnel changes and police arrests, this process must be root and branch in its scope.

The new government should clarify for internal and external audiences its vision of Georgia's future, its interpretation of the main security threats and how to respond to these, in a publicly debated Security Concept²⁵. This Concept will eliminate counter-productive ambiguity and make a new universe of expectations for Georgian policy in the future clear for all domestic and external actors.

The new government must pick the right battles for its first year in power in order to sustain popular support and avoid social disenchantment. The main challenges that concern Georgian society are those of welfare, education, healthcare and stability. Settlement of the question of territorial control will be easier when Georgia proper is able to stand on its own.

And, second, there are principles for the International Community. International actors must check and balance the policy directions taken by the new government, in order to retain a focus on reform and the main priority of strengthening the institutions of state.

The international community must rethink the concept of security sector governance to include those elements that are beyond Tbilisi's control – in Abkhazia, Adjara and South Ossetia. Some consideration must be given to supporting more healthy security sector governance within these regions.

International actors must coordinate their actions amongst themselves in assisting Georgian security sector, in order to achieve a better synergy of effort²⁶. In order to push for comprehensive reform, beyond the armed forces, new international actors should be encouraged

²⁵ Tbilisi should avoid using the term *national* security, an Americanism that is not appropriate for a multi-national country. Hence, one should refer to Georgia's Security Council and Security Concept.

²⁶ The US-led 'South Caucasus Clearing House,' launched by EUCOM in December 2003, is a good start towards greater coordination of international security assistance.

to provide assistance to the Georgian internal security bodies. The EU can play a positive role in this respect²⁷.

²⁷ At the level of policy declaration, the EU has recognised the need to play a role in security sector reform: the EU Commission's Communication on Conflict Prevention, of April 2001, attributes importance to security sector reform as a key part of a conflict prevention strategy, see *Communication from the Commission on Conflict Prevention* (COM 2001 211 Final: Brussels, 11.04.2001). However, the EU must move towards acting on these statements.

Chapter 14

The Military Service Appeals System in Georgia

Irakli Seshiashvili

The basic principle of the Georgian armed forces' structure is determined by Chapter 101 of the Constitution of Georgia, according to which "defence of the State and performance of conscription is a duty of all capable citizens of the country". Hence, the armed forces are based on universal military service. In the same chapter of the Constitution, it is stated "the forms of performance of military service are determined by the law". On the basis of this norm, the Law on Conscription and Military Service was passed on September 17, 1997.

This law has undergone significant changes. It is especially important to note amendments made to the law on July 21, 2002, which concern the system of appeal. Prior to January 1, 2003 an appeal on urgent military service was carried out by the military commissariats (the Soviet model) on behalf of the Ministry of Defence. As a result of the changes, the registration of recruits and appeals against military service were handed over to the bodies of local self-government, specifically to their military departments. The resolution of reservist problems was entrusted to a mobilization department of the Ministry of Defence. It was a first step in the direction of transferring the 'formation' of the armed forces to the civilian sector.

For the first time in Georgia, the so-called 'military tax' was created. In particular, recruits unable or not wishing to serve in the army received the right of delay from an appeal on military service in case of payment of the corresponding tax.

These and other innovations will be discussed in detail below. The current legislation about conscription and military service will also be discussed. In conclusion, the lack of legislation and the negative aspects of the call-up process will be discussed.

The Framework of Obligatory Military Service

According to the Law on Conscription and Military Service, all able-bodied citizens of Georgia are obliged to perform military service. Military service is even extended to permanent residents in Georgia who do not have citizenship. Citizens of other states can be called up for military service at their own will and on the basis of the corresponding order of the President of Georgia. Performance of military service is divided into four stages:

1. Primary military registration
2. Preparation for military service
3. Urgent military service
4. Transfer to a reserve of the armed forces and service in a reserve unit

Accepted on December 29, 1992 (since cancelled), the Law on Universal Military Service and the Law on Conscription and Military Service of 1997 divided military service into obligatory and contracted (professional) service and reserve service. In 2001, regular military service was added to the above-mentioned types of military service. The fact that the law determined contracted (professional) service as one of forms of military service was considered a necessary condition for any transfer from universal, obligatory military service to a wholly contracted, professional service.

However, economic difficulties and unfulfilled reforms in this field did provide an opportunity for this norm to be fully realised. Since 2002, with the help of the United States via the Train-and-Equip Programme (GTEP), it became possible to take on the contracted service of a large number of military men, and this has played a positive role in construction of the Georgian armed forces.

For an increase in the prestige and affinity of military service, and also with the aim of increasing the responsibility of civil servants, the law places some restrictions on the acceptance into public service of citizens who have not completed their military service. For example, this norm has found reflection in the Law on Diplomatic Service, according to which citizens who have not served in the army cannot be accepted into the diplomatic service. Service in the armed forces is one of the necessary conditions for work in so-called power structures (for example, the police and security service.)

In connection with the management of military service and performance of conscription, serious responsibility is assigned to certain officials in government and in the local self-government. Bodies concerned include the Ministry of Internal Affairs, civil registration departments, judicial bodies and the commission of medical-social examination. The competence of the state structures and bodies of local self-government also examines the financial maintenance of actions connected to the passage of military service.

According to Chapter 9 of the Law on Conscription and Military Service, persons liable for military registration/call-up are citizens between 18 to 27 years of age and those who have no legal grounds for delay or release from military service. Evasion is punished by the law.

Military Registration

The primary military registration of citizens is carried out by the military departments of regional and municipal bodies of local self-government annually, between January 1 and March 31, attended by citizens who have reached 15 years of age. After the primary military registration the citizen is considered to be a recruit. For registration, citizens are obliged to come to military departments of regional and municipal bodies of local self-government in a place of their permanent (more than three months) or temporary residence. In cases where the residence has changed, the citizen (within a two-week term) is obliged to undertake military registration in the regional or municipal military commissariat of the new place of residence. Citizens abroad are obliged, within the same term, to appear at an embassy or other official mission. At the demand of the military departments of the bodies of local self-government, citizens are obliged, within a two-week term, to present references as to their marital status, place of residence, place of work and for any changes in post and education.

The Code of Administrative Infringements details the responsibilities of recruits evading military registration and personnel organising military registration. Those guilty of infringements are subject to fines.

Citizens called by a military department of local self-government for military registration pass checks in the commission on the military registration, as approved by the local self-government head. The commission is structured as follows:

- Chairman of the Commission – the head of regional or municipal body of local self-government
- The Deputy Chairman of the Commission – the chief of a military department of regional or municipal body of local self-government
- Members of the Commission:
 - the representative of regional or municipal bodies of internal affairs
 - the representative of local bodies of public health services
 - the representative of regional or municipal bodies of national education
 - the doctors - experts conducting medical inspection of citizens
 - The Secretary of the Commission
 - The commission on military registration is obliged:

- To carry out a medical inspection of citizens to assess their suitability for military service
- To take a decision on the citizen's potential for military registration and to release him from military duty in light of an unsatisfactory state of health
- To carry out professional and psychological reports of citizens for assessment of the sphere of their use in military service.

At the initial military registration, citizens are obliged to pass a medical inspection with a surgeon, therapist, neuropathologist, ophthalmologist, otolaryngologist, stomatologist, psychiatrist, and an expert in narcotics, and in case of need, other specialists. In cases where a medical conclusion about the suitability of the citizen to military service cannot be made immediately, the commission on military registration can direct the citizen to the nearest medical institution. A list of such medical institutions is made by the Ministry of Health of Georgia.

Medical inspection costs and the payment of specialists is covered at the expense of the local budgets of corresponding territorial units, according to the programmes authorized by the Ministries of Defence and Public Health Services of Georgia. This means that the medical inspection of citizens in these medical institutions is carried out free-of-charge.

At the next stage, the commission on military registration makes a decision. The chairman of the commission on military registration is obliged to familiarize the citizen with the conclusion of the commission and with his duties connected to the military registration. Citizens have the right to demand a copy of the conclusion of the commission on the military registration.

Types of Obligatory Military Service

Georgian citizens and persons without citizenship are called-up to serve in the armed forces on the basis of the decree of the President on an appeal to citizens of call-up age and the reserves of military men when urgent military service is required.

Appeals against obligatory military service are carried out twice yearly – in spring and autumn. Service in the armed forces of Georgia means three possible terms of service depending on a category of recruits:

- 18 months – urgent military service
- 12 months – urgent military service for persons with higher education

- not less than 24 months – military service for officers called from a reserve
- not less than 10 years – military service for regular officers.

Decisions about appeals are taken only after the individual concerned is 18 years old. Citizens who are 27 years old are not subject to conscription and are enlisted in a reserve. Citizens who have passed military training in a military faculty of one of the higher educational institutions, received a military rank and enlisted in a reserve, can be called up for voluntary military service, or, in special cases, before 30 years of age, by the decree of the President of Georgia.

Enforcement

The call-up papers for those who are enlisted and for those who have reached 18 years of age are sent from a military department of local self-government institutions. After signing the call-up papers, the citizen is obliged to appear in a military commissariat specified in the call-up papers.

According to paragraph 197 of the Code of Administrative Infringements, non-appearance at a commission of appeal on obligatory military service without a respective excuse is punished by a fine of 1000 Laries. Non-payment of the fine, by the set date, results in 30 days detention. After payment of the penalty, the recruit again receives the same call-up papers. Repeated non-appearances entail serious consequences. The military department of the appropriate body of local self-government carries out an inquiry and sends the necessary materials to the corresponding regional public prosecutor's office, which, in turn, is obliged to take a decision about instigating criminal proceedings within 20 days. After punishment, evasion of obligatory military service is punished by penalty or imprisonment up to a three year term (Criminal Code of Georgia, Point 1, Article 356).

For an appeal on obligatory military service, the regional or municipal draft commission, which is approved by the head of the corresponding body of local self-government, is created. The structure of the commission includes the same persons as the commission on the military registration.

Recruits have the right to appeal against a decision of the draft commission in a 10-day term at the central draft commission of Georgia or in the court. In this case, the decision of the draft commission is suspended up to the announcement of the decision of the central draft commission or before coming into force as a decision of the court.

Medical Assessments

The draft commission is entrusted to carry out medical inspections of citizens subject to an appeal. The medical board has been created for this specific purpose. Depending on the results of the medical inspection of the recruits, the commission makes a conclusion about an individual's

suitability to military service in accordance with the following categories (the list of diseases, on the basis of which the suitability of recruits and military men is determined is given in the appendix to the order of Minister of Defence No. 360):

- valid for military service / valid for study in military school – the health of the recruit corresponds to requirements of military service;
- valid for military service with insignificant restrictions – the health of the recruit meets the certain requirements of military service; the place and the order of service are determined according to a state of health;
- valid for military service with restrictions –the health of the recruit does not meet requirements of military service in peacetime; the recruit is enlisted in a reserve and can be called up for military service only in case of mobilization for performance of light service according to the state of their health;
- temporarily invalid for military service – the health of the recruit at the moment of an appeal does not meet the requirements of military service and demands treatment; the recruit receives a delay from an appeal on military service before recovery not valid for military service – the health of the recruit does not meet requirements of military service; recruits of the given category completely are removed from the military registration process.

In case doctors are unable to complete municipal or regional medical boards by doctors, the inspection of recruits is carried out by a military-expert commission of the central draft commission. The medical board informs the draft commission about its conclusion, on the basis of which the draft commission, within the limits of its competence, takes one of the above-stated decisions.

The draft commission only takes decisions on a legal basis. Its decisions should not contradict the conclusions of the medical board. The draft commission has no right to change or cancel the conclusion of a medical board. The chairman of the draft commission declares the decision of the commission to recruits. On the demand of the recruit, the Chairman of the commission should provide an extract from the decision of the commission.

Central Draft Commission

The central draft commission created on the basis of a Presidential decree is the supervisory body intended to control the work of the regional and municipal draft commissions. Here the permanent military-expert commission functions, the organization and rules of work are determined by regulations concerning the military-medical examination, as approved by the President.

The value of the military–expert commission is that it actually verifies the accuracy of the final decisions of the regional and municipal draft commissions. The commission checks the competency of the conclusions of doctors on the soundness of assigning recruits to military service.

Legal Rights

The right for delay or release of an appeal on military service are determined in law. This measure in the legislative order provides for a lessening of corruption on an appeal on obligatory military service.

Numbers Serving

In total, the number of citizens of call-up age in Georgia is between 170,000 – 190,000 persons, while each year it is usually necessary only to call up 13,000 – 15,000. At the same time, as a result of the established privileges, the total number of citizens subject to an appeal does not exceed 50,000. However, after the introduction of military tax, some privileges were abolished in order to increase a contingent tax, some citizens subject to an appeal. As result of it, many recruits have paid military tax.

Delays, Appeals, Exemptions

In Chapters 29 and 30 of the Law on Conscription and Military Service circumstances that can form the basis for a delay or releasing of an appeal on military service are listed.

From an appeal on military service are released:

- Citizens declared invalid for military service for health reasons
- Citizens who have completed military service in the armed forces of other state – that is, persons who were, at an earlier time, citizens of another state and have since completed military service their; those of call-up age; those who have naturalized or have moved to a permanent residence in Georgia, are released from an appeal on obligatory military service in the armed forces of Georgia
- Persons condemned for perpetration of heavy or especially heavy criminal offences – that is, citizens who have served a term of imprisonment for the perpetration of crimes, the maximum punishment for which by the Criminal Code of Georgia provides imprisonment for a period of 10 years (not so heavy crimes) or condemned for a term of more than 10 years (heavy crimes)
- Persons involved in non-military alternative labour service – that is, persons called on for non military alternative labour service,

on the basis of a freedom of worship, belief and creed, and according to the decision of the draft commission and the order of Minister of Labour, Public Health Services and Social Security

- Post-graduate students – that is the persons enlisted in postgraduate study after completion of a full course of study in a higher educational institution and continuing study for reception of a scientific degree
- The persons who have received a scientific degree and are engaged in pedagogical or scientific work – that is teachers and scientific employees with a scientific degree
- Families with one son, where one member was lost in fights to preserve the territorial integrity of Georgia or during military service.

The President of Georgia has the right to release from performance of conscription especially gifted citizens of call-up age (Chapter 29, point 2). For example, if the recruit has had exclusive successes in sports, science, culture or arts, the management of corresponding establishments can request the recruit's release from obligatory military service. If recommendations are expediently recognized, the recruit is released from conscription by the Decree of the President of Georgia.

The following recruits have the right of delay from an appeal on military service:

- Recognized temporarily invalid for military service for health reasons – for the period of one year;
- Persons against which a criminal case is brought until a decision on prosecution by the law enforcement bodies concerned;
- The students of high or secondary special educational institutions involved in military preparation in military faculties – up to the end of study: that is, the students of high or secondary special educational institutions involved military preparation in military faculties are enlisted in a reserve of the armed forces upon termination of study;
- Persons who have paid tax at a rate established by the Law on the Tax for Delay of an Appeal on Obligatory Military Service – that is, recruits not wishing or unable to pass military service should pay tax annually at a rate of 200 Laries or a lump sum of 2000 Laries;
- Pupils of general educational, primary professional or general educational special schools – before reaching 20 years of age: pupils of schools, professional and technical schools (colleges)

are permitted to delay appeals of military service before reaching 20 years of age; upon reaching a specified age they are obliged to interrupt study and to undertake obligatory military service;

- Persons caring for an invalid grandmother or grandfather in their support, if there are no other legal tutors capable of supporting them – that is, persons recognized as invalids by the Ministry of Labour, Public Health Services and Social Security and requiring permanent care and attention, – the delay of an appeal on military service operates until circumstances change;
- Recruits having two or more children;
- Persons having dependent invalid members of families requiring permanent care and attention, if there are no other persons capable of caring for them – that is, if the recruit is the only source of financial support for invalid members of their family;
- Recruits having dependent minors and/or orphan sisters/brothers, that is, if the recruit has a dependent brother or sister under 18 years of age, or, if the recruit has dependent adult orphan siblings;
- Church employees of call-up age and pupils of spiritual schools;
- Only sons – that is, the only son from a marriage;
- Teachers of rural schools and rural doctors of call-up age;
- Recruits receiving a delay from an appeal on military service by decree of the President of Georgia –the President has the right to defer an appeal on military service for recruits;
- Recruits with one child who is under three years of age;

If on the day of an appeal, the recruit in the legal order is registered as the Candidate for the Member of Parliament of Georgia, he receives a delay from an appeal up until approved election results. In the case of elections as Member of the Parliament of Georgia, the recruit is released from the performance of conscription (Chapter 30).

After the central draft, the commission will make a decision on an appeal of a citizen on obligatory military service. The recruit is instructed to a distributive point, at which point he is enlisted in the structure of one of the below-mentioned military departments:

- subdivisions and units of the Ministry of Defence internal forces of the Ministry of Internal Affairs
- boundary forces of the State Department of Protection of Frontier

- subdivisions of Special Service of the Governmental Protection
- subdivisions of the Ministry of State Security

Something about Practice of an Appeal on Obligatory Military Service and the Lacks of the Law

It is necessary to note that the existing system of conscription in the armed forces of Georgia is inherited from Soviet times. The State is not capable of providing for the activity of a military contingent. In such a society, people perceive the military call-up as an inevitable necessity and frequently try to avoid it. The reason primarily being the heavy social and economic situation of the Georgian army coupled with the unworthy, frequently humiliating treatment of soldiers. The normative acts regulating an appeal on obligatory military service generally do not work in practice. The mass infringements of the rights of recruits in military departments and the draft commissions add to this fact. The current legislation is broken by the military departments, the draft commissions and by citizens who, in every possible way, try to evade military service.

In the next part working practice of an appeal is considered in two stages:

1. until January 1, 2003 and
2. against a background of changes brought into the legislation on July 21, 2002.

Appeals on Obligatory Military Service until 2003

Against a background of corruption in the country, the Law on conscription and military service was broken, in most cases, by citizens at the stage of primary military registration and also during appeals on obligatory military service. The draft commissions abused the rules of release and delays of an appeal on military service. From the very beginning of an appeal, military commissariats knew precisely how many recruits should be called up for military service, i.e. there was a so-called plan of appeal. During the appeal, only a small number of recruits appeared in corresponding establishments – 20 - 30 %. Here, it is necessary to note that there is the possibility that the data does not correspond to real figures, as there was often a private agreement between the recruit and commissariat, according to which the recruit was not called in the commissariat and his data was not fixed in the general statistics. The difference between the total number of recruits and number of the recruits required under the plan, was so huge, that it created ground for bias, social injustice and corruption, especially as the salary of civil servants is less a than living wage.

The plan of an appeal, in which there was a predetermined number of recruits, created a fertile field for the blossoming of

corruption in the call-up system. Absolutely healthy recruits could be released or defer military service with the help of a bribe. Even those unfit for service necessarily paid money to have their physical defect recorded. The question could also be solved without money, through the interference of influential patrons. Sons of the country's various important officials or businessmen never served in army. Unwritten "tariffs" were given by military commissariats of a delay of an appeal for 6 months costing between 100 - 200 dollars. The release of individuals from military service for reasons of ill health with reception of the military card, costing between 1000 - 1500 dollars. An actual release from military service was far more expensive, with a formal transfer of the recruit from the military unit and a guarantee of reception of the military card upon termination of service term.

As shown, fallaciousness of the given system stems not only from the unfair actions of those in the military commissariats, but also by an absence of control over them. Besides, any measures of punishment against them really were not applied. The Ministry of Defence did not deny that bribery existed in the military commissariats and tried to find a way out through the legalization of bribes.

Representatives of the military commissariats explain the widespread departure from service in the army by the social and economic situation existing in the armed forces. Besides, as argued, there are many ways to evade military service. For instance, recruits enter higher education institutions to avoid conscription (until July 21, 2002 a delay from an appeal was given to students of those high schools where there was no military faculty; the number of such students was between 70 000 -80 000). At the same time, the military cited an absence of recruit registration as the main problem of the draft process. Military registration and enlistment offices were dissatisfied by the elimination of the system of residence permits, as it became impossible to find citizens who were subject to an appeal. However, it was possible to gauge whether or not the registration of recruits was well organized. This argument was deemed one of the reasons for the failure of the appeal plan. Employees of law-enforcement bodies who gave military commissariats the informal information on recruits actively participated in this process, i.e. informing of a place of stay of those citizens who were not registered in the corresponding police branches with the hope of receiving a certain share of the bribe paid for by the recruit.

As mentioned, the appeal of citizens is preceded with the registration of recruits from where infringement of the corresponding legislation begins. During the primary military registration, enlistment offices do not carry out detailed medical inspections of recruits, though the rules of medical inspection and procedures, which are necessary for admitting recruits, are specified in the Law on Conscription and Military Service, as well as in the regulations concerning the military-medical examination. Instead of observing the rules and procedures, military commissariats tried to take on as many recruits as possible, despite the fact that many among them were patients with enuresis, flat-foot, tuberculosis, nephritis, diseases of the stomach, anxiety and mental disorders. Medical inspections should be financed from the local budget,

however this requirement is compromised because of a lack of a resources. The allocated scanty means are insufficient for a full medical examination. The military-medical commissions have developed a rather original method, i.e., a superficial, visual survey of recruits as opposed to a necessary thorough inspection.

A similar situation took place also during an appeal on obligatory military service. There were cases where the police accompanied by those from the military registration and enlistment offices 'recruited' people of call-up age directly from the street. The nongovernmental organization association "Justice and freedom," has carried out investigations among military men¹, concluding that 43% of those recruited for military service were brought in through violent means, 31% from their homes, 5% from the street and 7% from educational institutions. Military commissioners do not deny such facts. During the investigations², in response to the question "How frequently you had to bring recruits in a military registration and enlistment office by force?" only one military commissioner answered negatively.

Medical inspection of recruits had a formal character both in the regional draft commissions and in the central draft commission.

Only 54% of the interrogated military men passed the medical inspection in the regional draft commission, and 26 % in the central draft commission.

Upon revealing serious diseases at the formal inspection, members of the draft commission, military registration and enlistment offices frequently promised recruits that there would be corresponding treatment carried out in the armed forces. By "involving" them in military service in such fraudulent way, it was necessary for the fulfilment of the plan on an appeal.

Another problematic question, which was also of great importance for the fair carrying out of an appeal, was the procedure of lodging a complaint against the medical boards. If the recruit did not agree with the conclusion of a military medical board and demanded an appeal, workers of a military registration and enlistment office directed him to the stationary medical inspection only in strictly certain medical institutions (for example, in the central republican hospital). As practice has shown, doctors and specialists working in these establishments always tried to uphold the conclusions of the draft commissions and, as a rule, to leave them in force. Despite the fact that according to Chapter 44 of the Law on the Rights of the Patient, "military men of urgent service, recruits and employees of the armed forces on a contracted basis have the right to independent medical examination for definition of the state of their health," this norm was not put into practice. In response to the question "Have recruits an opportunity to choose medical institution for stationary inspection?", the responses were documented as six stating "yes" and 29 stating "no."

¹ In total 890 military men were questioned. Here we note that each mention of interviews with military personnel in this article is based on this figure.

² In total 18 military commissioners and 17 chiefs of mobilization departments have been interrogated..

A separate problem is when an appeal in the armed forces is undertaken by an ethnic minority. Local recruits frequently do not speak the state language and do not understand Russian. This fact "made easier" infringement of the law in such areas – as a rule, recruits were brought into military registration and enlistment offices by force. In most cases, medical inspections were not carried out and frequently the army even took on family recruits.

Another problem concerned the low level of civil education among recruits and their families. As a rule, recruits have little or no knowledge of their rights, and the workers of the draft bodies withheld this information to meet their own interests. Intimidation and the threatening of recruits and their families was not uncommon.

One of problematic questions is the delivery of documents and references from military registration and enlistment offices to recruits, which are necessary for the authorisation of identification cards and passports upon entering higher educational institutions or working. If a recruit should receive call-up papers in the nearest appeal, he could be refused documents, even if the appeal had not yet started. This could occur under the pretext that, in some months, he would be called to the armed forces. In such cases, recruits had to pay, as a rule, a bribe to workers of the military registration and enlistment offices for documents to which they had a legitimate right.

In addition, the majority of recruits did not know their legitimate rights. According to the investigation, 68% of the interviewed military personnel did not know recruits' rights, and 68% declared that neither the military registration nor the enlistment offices had explained their rights for the following principal reasons:

- the majority of them are from socially unprotected families and have insufficient education
- to the recruits living in regions, it is difficult to receive the legal information or consultation of competent experts

Workers of military registration and enlistment offices used these lacks in their purposes, in result of which the legislation was frequently violated.

It is necessary to emphasise the question of the completion of the draft commissions. As practice revealed, in spite of the fact that these commissions were not permanent, they were completed with the same people, which automatically led to the forming of the mechanism of corruption. Illegal incomes have taken root in the system and, in this business, practically everything that excluded a principle of fairness in the system was involved.

Appeal on Obligatory Military Service on a Background of Changes Brought in the Legislation on July 21, 2002

As previously mentioned, as a result of the changes in the Law on Conscription and Military Service (July 21, 2002), organization for the

process of appeal on obligatory military service was handed from military commissariats to the military departments of local self-government bodies. The law went into force at the beginning of 2003. Taking democratic principles into consideration, it is necessary to welcome the fact that the process of appeal will be carried out by civil services. However, the current processes testify that for the meantime, the appeal is carried out by the same military persons dressed in civilian clothes. Thus, from the viewpoint of results, practically nothing changes. In light of the fact that changes have been declared beforehand, the 2002 plan of appeal has failed. Having understood that after 2003 there position of supervision over the system of appeal was coming to an end, the workers of the military registration and enlistment offices seized every last chance to obtain bribes from recruits. As a consequence, the plan of an appeal has been fulfilled 26% and this has seriously undermined the feasible defence of the country.

The second serious innovation was that privileges for students of high schools without military faculties were abolished (earlier they had the legitimate right for a delay from an appeal), and in their place "military tax" has been established. In other words, the number of recruits subject to an appeal has considerably grown (only one out of each ten recruits is subject to an appeal), and for other recruits (who were not called-up and for whom it was not necessary) the tax was established. If earlier military registration and enlistment offices extorted bribes from recruits for a delay from an appeal then, according to changes in the legislation, "bribery" has been legalized, but it should be paid from the State budget. The delay for one year informally cost the recruit 400 Laries. The Law on the tax for a delay from obligatory military service was 200 Laries. According to the same law, the significant part of the paid tax was transferred to the special account of military departments and intended for social and economic repair of the army and reform of the professional army. However, the facts determine that these sums were spent for other tasks and this was clear for the simple reason that there was no evidence documenting the creation of a professional Georgian army.

Besides, the law brought with it a certain ambiguity. In particular, for a delay of one year, a recruit is required to pay 200 Laries. With a payment of 2000 Laries, an appeal can be deferred for 10 years. However, it does mean a delay, but moreover, a release from an appeal. Such a situation theoretically is very possible, when all recruits will be expected to pay the tax and when there will be nobody to call up for military service. This fact alone puts the defence of the country under threat.

In my opinion, the form of an imposed military tax in contemporary Georgia causes social discrimination, dividing recruits into two groups between solvent and insolvent. Under the current legislation, those recruits who wish to serve (about 1%) are called into the army as are those who cannot pay 200 Laries, i.e. those who face the most dire social and economic situation. The result is on the one hand, a poor army, with the lowest physical and intellectual level and, on the other hand, a layer of citizens who, for 200 Laries per year, manage to

evade performance of a military duty, i.e. required by Chapter 101 of the Constitution.

The legislative changes of July 2002 urged the provision of additional finances to military departments. Financial problems should be solved not at the expense of citizens, but at the expense of the State budget. If the State cannot find the means for defence, this does not mean that citizens should be required to pay additional taxes.

In fact, the failure of the plan on appeals has exposed the fact that within Georgia there is an insufficient contingent of recruits. Privileges aimed at increasing their number have been abolished and, against this background, recruits have been forced to pay taxes. With the military tax and having increased a contingent of recruits subject to an appeal, the State has found alternative sources of financing. It means that the State "will feel a taste" for additional financing on the basis of conscription and will never agree to establish a professional army. The State will do everything possible to sustain the system of appeal without changes and, accordingly, to receive additional funding from its citizens through compulsory military service.

After the first appeal of the newly introduced military tax, the service of regional management and the President of Georgia prepared changes in the law. Military tax was increased from 200 to 1000 Laries. The Parliament, quite fairly, did not ratify the amendment. If the military tax was to increase, the system of appeal would return to one based on bribery. Citizens, on the whole, could not or would not wish to pay 1000 Laries and instead of this "would agree" on a negotiated sum with the military departments. Taking into account that the number of citizens subject to an appeal has increased to 100 000 persons, dozens of millions Laries every year would settle in the pockets of corrupt officials in the military departments.

However, as the current processes have shown, the new tax has not eradicated corruption. It has simply lowered "rates". It is possible to say that the current system seriously undermines the defence of the country for the following reasons:

- introduction of the tax will cause social discrimination and recruits called up for military service, taking into account their physical and intellectual level, will not be able to meet requirements of military service
- if it is the transition of the Georgian army into a professional army is planned and put into action and the military tax is intended for its funding, responsibility for the defence and security of the country should not be given to recruits alone. It concerns all citizens, irrespective of age and sex. Thus, if the ways for the creation of a professional army are found and funding accounted for, it might be expedient to, increase income tax by a certain percentage and only for the term necessary for its creation in place of introducing a separate tax for recruits.

- the basic lack of a system of appeal meant that a high degree of non-professionalism and corruption in the corresponding structures overwhelmed the system for many years. The military consistently showed its discontent with respect to the shortage of recruits and corruption. The reality was that corruption was rife in their departments. The military criticised the absence of appropriate control over the system. It is, therefore, firstly necessary to strengthen the mechanisms of control and to involve those measures of punishment, which are already stipulated by the legislation

and finally, as a whole, it is necessary to note that the long-term practice of the violent call-up of recruits makes the system privy to potential criminals. The military manoeuvres carried out recently with the United States and the forming of highly paid professional divisions have shown that Georgia should go in this direction. The appeal on military service should be carried out only according to the personal desire of citizens. This circumstance specifies that it is time to transfer, in a practical way, the deliberations about the forming of professional army in Georgia into a reality through the formation of a concrete document, which will determine the required actions and means necessary for this purpose.

Georgia, the Black Sea and the Approaching West

Jan Arveds Trapans

Introduction

Georgia is moving toward the West and the West is moving toward Georgia although not for the same reasons. In Georgia the movement got definitely under way with the Rose Revolution-- the political change of 2003 the electoral results of 2004--whereupon domestic reform policy accelerated and foreign policy rapidly oriented westwards. The West has been moving for some time. Bulgaria and Romania, two countries on the western shore of the Black Sea are now NATO members; Turkey has belonged to the Alliance for a long time. Furthermore, Bulgaria, Romania and Turkey intend to get into the EU and it is likely that they will accomplish their aim in a few years. When this happens, the Euro-Atlantic community will possess a considerable part of the shoreline of the Black Sea. The eastward movement does not have anything to do directly with revolutions, the Rose Revolution or the more recent one Orange Revolution. Nonetheless, the West has to take them and their consequences into account.

“The West” is NATO and the EU. It includes countries that are members in one or the other or both institutions as well as some individual states. This definition is an imprecise one and it is used for the sake of convenience. It deals with institutions and states which have an active security policy toward the Black Sea area and the Southern Caucasus. It neglects other factors and avoiding analytic definitions. However, nowadays much of Western policy toward the broad area from the Baltic to the Black Sea is made in NATO and the EU, the headquarters of the Euro-Atlantic community, with its capital at Brussels. There of course is more to the West than two organizations. There are states with their distinct foreign and security policies. Among them, the United States is uniquely important to Georgia because it a particular policy toward the region.

“The West” also says that it is distinguished by shared values--principles, mores, and ways of behaviour. These values are seen in their everyday political and social behaviour--in democracy, civil society, civil and human rights, and so forth. The so-called transition countries like Georgia, which want to be accepted by the Trans-Atlantic community, are expected to assimilate these values fully and demonstrate them in their public and private behaviour. We shall not neglect values in the course of this Chapter. However, geostrategy and geopolitics will be dealt with first.

As the West moves eastward, its attention shifts toward regions and countries, to the Black Sea, the South Caucasus, and Georgia. We can be more certain about which countries are in the South Caucasus; they are Georgia, Armenia, and Azerbaijan. The Black Sea, meaning the countries that belong to it, is not as easy to describe. There are countries that border on the Black Sea are the obvious choices. But there also are countries in 'the Black Sea region', and there is a bigger number of them, because once NATO and the EU stand at the seashore, Greece is certainly a country of 'the region'. There is the Black Sea littoral, with even more countries, Austria among them. The above descriptions actually indicate various security, political, or economic concerns. However, whatever the definition is and no matter how large or small an area it encompasses, Georgia is in each one of them, often at the centre or close to it.

As NATO and the EU move eastward, their policy makers assess contiguous areas—the Baltic, the Balkans, and the Black Sea—in terms of security problems, that is, potential threats emanating from them. Because Georgia is in the South Caucasus and in the Black Sea area, it will be placed in the context of difficulties and threats arising from one area or the other. This is not necessarily to Georgia's disadvantage. If threats are to be removed or at least moderated, it cannot be accomplished without a Georgia's sustained participation. We shall start, therefore, with examining some of the various Western views—those of the international institutions in Brussels and the United States—on threats, security and reform in the Black Sea area, South Caucasus and Georgia.

Security in the Eyes of the West

The West and the Black Sea now touch each other and their contact area will be extended in the future. It is only natural that institutions and countries become concerned with security threats when they begin to loom in the immediate neighbourhood. The 'frozen conflicts' in the Black Sea area are a case in point. To Georgia and other regional countries they have been a danger of long standing. But as long as NATO and the EU were separated from them by an area in between, by Romania and Bulgaria, they could be disregarded, to a large extent. As long as they were kept frozen or at least contained, the question whether a solution had to be found could be postponed as well. In areas like South Ossetia and Abkhazia, the OSCE and UN could keep things more or less stifled and contain crises from fomenting across local borders.

Security in the Black Sea area and the South Caucasus has begun to attract more attention among policy makers. Recently, an expert testifying to the Foreign Relations Committee of the United States Senate said that the Black Sea region forms the hub of an evolving geo-strategic and geo-economic system that extends from NATO-Europe to Central Asia and Afghanistan. As such, it is crucial to US-led antiterrorism efforts. It also provides westbound transit routes for Caspian energy supplies, which are a key to the European energy balance in the years ahead. In the American view, the South Caucasus

Georgia is close to the centre of the wider Black Sea area and most of the strategic and economic lines of concern move through Georgia¹.

Similarly, a study of the Black Sea meant or the European Union recognizes that what happens in and around the Black Sea region affects European interests. Control over the Caspian Basin energy resources, transport routes through and around the Black Sea, the interaction of many regional conflicts in the South Caucasus and international involvement in these conflicts confer on the region a unique geopolitical interest. The various threats festering in the region can upset international stability. Any state that controls transport and traffic movement through it possesses a geostrategic advantage of considerable value, but this prize also increases the likelihood of armed conflicts erupting in the region. There is a plethora of problems emanating from the Black Sea region, ranging from environmental disasters to the smuggling of drugs. Threats could spill over into the EU area, threatening a disruption of the smooth functioning of the EU economy and political stability. With the latest round of enlargement and further enlargements planned in the near future, these issues acquire ever-greater urgency for the EU, which must find ways to avoid an escalation of various problems before they affect member countries².

Addressing the Council of Foreign Relations in Washington, Romania's President—expressing the policy views of a freshly-accepted NATO member—emphasized that much of the reality of the Black Sea basin is shaped by economic stagnation, insecure and unsecured borders, organized crime activities, and frozen conflicts. NATO cannot leave the countries of this region as victims of European history, as unstable borderlands outside Eastern Europe, he said. Renewed energy should be devoted to finding lasting solutions for the "frozen conflicts" in Trans-Dniestr, Abkhazia, South Ossetia, and Nagorno-Karabakh. The persistence of such lawless "black holes" threatens the security of Europe by spilling over organized crime, human and arms trafficking, and transnational terrorism. Romania would build bridges--not defensive shields--by promoting freedom, democracy, prosperity, and stability in the Black Sea region³.

We have here three views, voiced in the United States, at a NATO gathering, and a study for the EU, recognize regional threats although sometimes the region is described more narrowly as "the South Caucasus", sometimes more generally as "the Black Sea area". The threats are listed in a different sequence of priority. To America, global terrorism certainly is more dangerous than, for example, to Denmark, although both are NATO members. New threats, like trafficking in drugs and human beings generated in the fragment states, are of greater

¹ Vlad Socor, 'Advancing Euro-Atlantic Security and Democracy in the Black Sea Region'. Testimony before the Senate Foreign Relations Committee, March 8, 2005.

² Mustafa Ayadiev, *Europe's next shore: the Black Sea Region after EU enlargement*, Institute for Security Studies, Occasional Paper No 53, June 2004.

³ Traian Basescu, 'The Black Sea Area: Advancing Freedom, Democracy, and Regional Stability,' Council on Foreign Relations, March 10, 2005. Also see Dov Lynch, 'Security Sector Governance in the Southern Caucasus, Towards an EU Strategy' in Anja H. Ebnöther and Gustav E. Gustenau, eds. *Security Sector Governance in Southern Caucasus—Challenges and Visions* (Vienna and Geneva: DCAF, 2004), pp. 34-57.

concern to Germany than Al- Qaeda conspiracies or terrorist activists circling Georgia and intruding across its borders. The new threats generate ethnic and religious conflict, produce illegal migration, and live from trade in human beings, drugs, money, weapons and materials for weapons of mass destruction. They not only facilitate criminal activity, but also infest, undermine, and even influence state institutions. Criminal conglomerates operate regionally and have international tentacles, reaching westwards, into NATO and the EU area. The new threats cannot be detached from each other and dealt with piecemeal.

Terrorists and drug smugglers alike find a refuge and in fragment states, the staging areas for criminal conglomerates. Their activities flow from one fragment state to the other, across the Black Sea, penetrate borders, and infiltrate larger, contiguous countries, Georgia, Moldova, and Ukraine. The fragment state closest to the West is the Trans-Dniestr Republic between Ukraine and Moldova. The other fragments with the frozen conflicts are Abkhazia, South Ossetia, and Nagorno-Karabakh. They are remnants of the collapsed Soviet Union and, for political and strategic reasons, Russia has sustained stalemated conflicts with political stratagems. "Russia's policy consists of freezing not only the conflicts as such, but rather the negotiating process, which Russia itself dominates"⁴.

Of course more needs to be said about security concerns in the Southern Caucasus and Georgia because there are other major issues of great concern. We used the example of the frozen conflicts in order to underscore the fact that events have pushed them from a periphery of Western attention toward its centre and the recognition that the Black Sea region is the most conflict ridden area along the expanding Euro-Atlantic perimeter. But today the West lacks a coherent and meaningful strategy *vis-à-vis* this region.

The Guarded Approach of NATO

Georgia's new security policy was outlined by Gela Bezhuashvili, the Secretary of the National Security Council, speaking at a seminar of the Harvard Black Sea Security Program held at Batumi in September 2004. Georgia is inseparable part of the Black Sea region, he said, and together with other nations plays an important role in enhancing the security of this region. Particularly after the "Rose Revolution" the security of the region became a priority for the new government of Georgia, which seeks to develop and enhance moderation among the Black Sea nations and all other parties having interests in the Black Sea Security. At the same time, with the recognition of the Black Sea identity as an important aspect of global security, Georgia strives to achieve full membership in European and Euro-Atlantic structures. In this respect, Georgia tries to follow examples of Bulgaria and Romania, which already enjoy NATO membership and stand close to full integration in the European Union⁵.

Georgia aspires to get into NATO and NATO has told all hopeful aspirants what it expects them to do. The Study on NATO Enlargement

⁴ Socor, *op cit*.

⁵ Gela Bezshuashvili, Speech at Batumi Seminar, September 11, 2004, Harvard Black Sea Program.

issued in 1995 was the first major statement. Programs, like the Partnership for Peace, followed and the Membership Action Plan was introduced in 1999. A country that hopes to join NATO has to observe definite rules of behaviour in its domestic policy and in relations with its neighbours. It has to have demonstrable civilian control over the military and provide economic wherewithal to reform and sustain its armed forces. States which have ethnic disputes and conflicting territorial claims have to settle their disagreements peacefully. It should participate in Partnership for Peace exercises, contribute to regional security, and engage in international peacekeeping missions.

The Membership Action Plan of 1999 has many requirements. It aims at improving defence planning for prospective members. A candidate submits annual national defence plans to NATO which set out in clear detail defence reform activities. These include force development plans, defence resource management, economic policy, and improvement of interoperability of armed forces so that they can carry out missions identified in the NATO Strategic Concept. NATO provides evaluation of a country's progress, gives technical and political guidance, and supplies defence planning expertise. The MAP is meant to overcome a lack of experience among civilians and the military in defence planning and bolster the sectors where civilian and military expertise is thin in some areas. It is based on experience with the enlargement process from 1994 to 1999. Defence reform in the three countries which were accepted at the Washington Summit had been much more problematic than had been anticipated, and the results, at best, passable. Therefore NATO came up with the MAP which, among other things, investigated what the aspirant countries were actually accomplishing.

Although informally there is talk of 'NATO criteria', officially none have been declared. Neither the Study of 1995 nor subsequent documents have a fixed set, a definite inventory of them (unlike the EU, which has issued specific criteria--many of them). NATO does not want to find itself in a situation where an applicant brings to Brussels a neatly checked off list of actions taken and says: 'It all has been accomplished'. Thus the title 'Membership Action Plan' is something of a misnomer. Fulfilling all requirements plans does not guarantee membership. When the MAP was given out, NATO reiterated that there were no fixed criteria. Decisions are made on a case-by-case basis. The Alliance's members resolve, by private consensus, whether accepting an applicant will contribute to security and stability in the North Atlantic area at the time the decision is made. The escape clause—that is what it is—was devised largely with Russia in mind. The Alliance can make an internal decision for which it does not have to give a public explanation.

In 1995 when NATO turned eastwards it was not certain how far and how fast it would move and how confident its progress would be. The first cooperation programme of cooperation in defence, the Partnership for Peace, was initially called, somewhat sardonically, a Partnership for Procrastination. It was meant to provide a defence programme to Central and East European countries so that they would start on reforms while NATO attempted to make up its mind on what to

do. Partnership for Peace has expanded and other programmes have appeared, of which the Membership Action Plan is the best known but not the only one. Over the years, NATO has established a web of relationships, like a bow wave moving ahead of a slowly advancing security ship, in the area where it is heading. On occasions, some countries for whom membership is a somewhat distant prospect have developed more active and intense cooperation and defence reform programmes than those who already are close to the NATO entranceway.

Initially, NATO working programs were geared for the military. The Partnership for Peace was developed by NATO's military side, the Supreme Headquarters Allied Powers Europe, SHAPE, and naturally it had a military bent. Gradually the programs have been reoriented toward economic and political issues. NATO programmes pay attention to establishing a proper division power between the Parliaments and the Executive, strengthening democratic and electoral institutions, the rule of law, human rights, and development of civil society. But defence programmes still weigh in the balance and much of the program development will be done in target country Defence Ministries and General Staff offices.

A state that does not anticipate getting into NATO soon, if at all, can get more concrete benefits by developing a set of working programmes with NATO than countries close to EU membership from their relationship with the EU. NATO has established and elaborated a rich menu of offerings. The Partnership for Peace has managed to diminish the distinct barrier between membership of the Alliance and partnership with it. The EU's first priority, on the other hand, has not been to diminish barriers between members and non-members, but to deepen the integration of its members inside the organisation.

The approach that NATO has elaborated in Central and Eastern Europe would work to Georgia's advantage. Georgia could plan and implement out defence and security reform programmes in tandem with NATO although actual membership could be far away. But in doing so, Tbilisi will have to ascertain Georgia's needs and priorities. Some years ago, a Defence Minister of one of the Baltic countries observed that in the past, people waited for instructions from comrades in Moscow on what to do; now they look to Brussels. Georgia has to determine and fix its future security arrangements itself.

The Circumspect European Union

Thus there is a fundamental difference between how NATO and the EU propose to deal with transformation in the areas next to them. NATO has an abundance of programmes that help a country 'meet NATO standards'. But the recipient country can never be quite certain whether it will get in NATO or not. The EU starts with the question whether a country is slated to be a member or not. If membership is in clear sight, then there is an association agreement, which is generally seen as a precursor to accession. EU has a detailed list for what the candidate

have to accomplish and develops an intense engagement with the particular country.

There have been some recent changes. The European Commission's communication on *Wider Europe Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours* of March 2003 launched a debate about EU policy toward the neighbours in the periphery. Security sector reform figured prominently in it. The European Security Concept, written under the guidance of High Representative Javier Solana (who, previously, served as the Secretary General of NATO), envisaged the creation of a zone well-governed states next to the Union's perimeter. They would be stable, institutionally strong, and amenable to EU concerns. The Wider Europe initiative led to a Neighbourhood Policy. There are Action Plans concluded with the neighbouring states but these plans are not, however, steps toward accession.

In the Wider Europe Communication of 2003, the South Caucasus got short shrift: "Given their location, the Southern Caucasus therefore also falls outside the geographic scope of this initiative for the time being." EU does have a Country Strategy Paper for Georgia. It goes back to 2001 when it was adopted by its Commission. It included a project, an in-depth study on how to reform Georgia's Border Guards, and one million Euros was provided for it. Nonetheless, for some time, EU pursuits have remained at 'the declamatory level, and concrete actions in this field are piece-meal and limited'. It was said that 'The European Union's new Neighbourhood Policy comes as close as Brussels could be expected to get to asking, "Am I my brother's keeper?"' As Genesis informs us, opinion on this question varies'⁶.

But the tide is beginning to run the other way, pushed by two fortuitously converging movements. First, there is the EU's cautious eastward progression which, presumably, is to culminate with the admission of Bulgaria, Romania, and Turkey. Second, there are the sudden, unexpected Rose and Orange Revolutions which have shifted Georgia and Ukraine westwards; they are carrying Moldova with them. As the two movements converge, they raise the question of security and stability around the Black Sea and Southern Caucasus to a prominent and visible elevation. Studies on security studies on the Caucasus region and the Black Sea area are initiated by Western institutions--the think tanks; there are seminars convoked for specialists from the academia, attended by government policy makers as well; these are well-known straws indicating a coming shift in the policy wind.

Georgia and the West

As EU views of the area and Georgia's significance are changing, so has Georgia's policy toward the EU. Georgia has been accepted in the European Neighbourhood policy but it does not, as yet, have an Action Plan, although such plans have been negotiated and approved for Ukraine and Moldova. Tbilisi has publicly made known that it will not

⁶ Ronald D. Asmus and Bruce P. Jackson, 'The Black Sea and the Frontiers of Freedom,' *Policy Review*, p. 5.

be satisfied with a partnership status in a neighbourhood outside the EU; membership is the long term objective.

Membership of countries in the Black Sea region was the question put to the Parliamentary Assembly of the Council of Europe by Ukraine's President Yushchenko in January 2005. He announced that his country is making a strong drive toward EU. Ukraine signed a three-year Action Plan with the EU that sets out the chief areas where Ukraine needs to reform to meet EU standards, but Yushchenko wants a guarantee that once the action plan ends, then negotiations toward membership would begin, possibly in 2008. But the EU states are reluctant to admit new members from the Black Sea area.

There is a debate among those who want to 'deepen' the EU and those who want to 'broaden' it; those who want to bring in Turkey and those who hesitate; those who weigh the relative merits of building the weight of the EU as a security organization vis-à-vis NATO; and those who claim that with taking in ten new members and adopting a new Constitution the EU has more than enough on its plate. EU members in southern Europe are reluctant about a shift toward the Black Sea; they do not want attention turning away from the Mediterranean area. 'Whether Ukraine should be allowed to set foot on the path that leads to membership is a question diplomats try hard to avoid', writes *The Times* of London. No doubt, they would avoid Georgia's steps on the path just as much or more.

Nonetheless, Georgia has requested that it would like to see the kind of attention that Brussels is giving to Ukraine. Georgia sees its course linked to that of Ukraine as Kyiv attempts to move beyond the EU's Neighbourhood Policy and attain membership. Georgia also wants more engagement of the EU in attempts to settle the frozen conflicts in South Ossetia and Abkhazia, where the EU has given assistance for economic rehabilitation. Georgia has begun discussions with the EU whether it could replace the OSCE in a border monitoring mission on Georgia's borders with Russia. However, the anticipated Action Plan would provide assistance for transforming the police, penitentiary, and judiciary systems—three important parts of Georgia's security sector.

Tbilisi expects positive responses from Brussels—both from the EU and NATO—but the two are giving reluctant and ambiguous responses. The problem with the EU is that, as already noted, unlike NATO it has not elaborated assorted and multiple assistance programmes where a partnership relation can provide as much external assistance as action plans promising membership. Georgia's approach to Brussels could be the development of an inclusive security governance reform programme aligned with what NATO and the EU could offer to support such a programme.

Security Sector Reform

The first issue on Georgia's work agenda should be the development of a set clear, coherent, and realistic security and defence plans. A National Security Concept, the basic policy document, has been long in the making. Presumably, the one being developed will provide adequate

policy guidance. The relevant questions as to the Concept's adequacy are: Does it give a realistic interpretation of Georgia's security needs and establish feasible objectives? Does it provide clear policy guidance to Georgia's Defence and other Ministries? If not, then it is not much more than a statement of good intentions, with limited impact on what actually will take place in the short, medium, and long terms. The accepted method of coherent security planning is generally accepted as follows. Successively, there is a threat perception, a national security concept, a defence policy, a national strategy, and a military doctrine which determines a force structure design, a force development plan, training, and so forth. This is the military part of security planning, and Georgia's national security concept should set in motion related planning processes in other security sectors.

We cannot expect to have a neat and precise sequence fall into place right away. The orderly planning procedure described above has been worked out in Western countries over a number of years. In Georgia, as in every other transition state, defence and security policy makers have had to respond to problematical, rapidly altering conditions. Nonetheless, Georgia has now decided on a definite orientation for its security policy. It is finalizing a National Security Concept and should work on a Strategic Defence Review. The security Ministries are being reorganized and--not the least important--the defence budget has been significantly increased. It will be very challenging to simultaneously develop a set of plans for NATO and the EU and put everything in a coherent framework.

In doing so, Georgia's security policy makers should not lose sight of the cardinal principle: it is the security of their country that they are working toward; they are not exerting themselves simply in order to get into NATO and the EU. The fact is that in the end Georgia might not be accepted by the one or the other or its entry could be interminably postponed. In a study on Georgia's security, General Sir Garry Johnson, the Chair of the International Security Advisory Board, reminds the Georgians that all three Baltic countries declared their strong desire to join NATO as the prime security guarantor and followed this closely, but more quietly, with a declaration of intent to join the EU. 'A decade later both those intentions [have been] fulfilled, but there were times in the early days when... it seemed that the Western European nations would, without the urging of the United States, still be dragging their feet'⁷.

According to ISAB, the major lessons coming from the Baltic which should be observed in Georgia are the following. From the outset, the political and security framework within which reform is to take place should be clearly established; there needs to be an overall strategic plan for the whole security sector; Government has to approve, at the highest level, the major issues of the reform process; Government control and political support of and for the process is necessary and must be sustained; and external assistance should be well coordinated and this

⁷ Sir Garry Johnson, 'Security Sector Reform in the Southern Caucasus,' in Ebnöther and Gustenau, p. 4.

assistance should be direct linked to the development of the overall reform process. Finally, there is a lesson for the local reformers and the external advisers: “Be patient, and seek a good and workable outcome, rather than strive for a swift and unobtainable perfection”⁸.

Georgia’s policy makers have reached the stage of the reform process where are consolidating a National Security Concept, trying to come to grips with an overall framework plan, and they hope to get into the in NATO Membership Action Plan or MAP. Realistically, Georgia should not anticipate being admitted to the Membership Action Plan for some years. But it could get what Ukraine got in 2002, a surrogate, a NATO-Ukraine Action Plan. Its purpose of this plan is to identify Ukraine’s strategic objectives and priorities in pursuit of its aspirations towards full integration into Euro-Atlantic security structures. It is formulated to provide a strategic framework for existing and future NATO-Ukraine relations. Until Ukraine is accepted into the MAP, it will use the extant Action Plan. However, there is not that much difference in the substance of the two plans. Georgia could ‘seek good and workable outcome’ today which will bring a Membership Action Plan in due time.

Moreover, when various Action Plans are reviewed—developed for NATO or for the EU--many of their objectives are very much the same. NATO - like the EU - wants to strengthen efficient public administration, democratic institutions, and civil society. The EU - like NATO - wants a ‘good neighbourhood’ particularly as it approaches the Black Sea and the vicinity of Georgia. The Action Plans would not be identical ones but they would not be very far apart. NATO is entering the third phase of its post–Cold War adaptation. The first involved the strategic enlargement of the Euro-Atlantic space by inclusion in NATO of Poland, the Czech Republic, and Hungary. The second phase moved NATO to the Baltic and the Black Sea and brought a degree of fusion in the security objectives of NATO and the EU as their almost simultaneous and overlapping enlargement to the East took place. The third phase involves both of them looking at and across the Black Sea.

Plans become implementation programmes. The number of Western advisers in Georgia is increasing and so are assistance programmes. There will be more of them; they will be multilateral, bilateral, and sometimes come into view as initiatives of independent Western institutes. All this Western assistance is well-meant, most of it can be useful, but it seldom is well co-ordinated. According to the International Security Advisory Board, which came to Georgia having worked in the Baltic states until 1999, the Baltic defence reformers ‘were not [always] helped in their work by the plethora of advice and assistance, often uncoordinated and short-term in nature, offered by supporting nations and organisations, nor by the stream of visitors who have to be looked after, and of external meetings which have to be attended’⁹.

⁸ Johnson, *op. cit.*, p. 9.

⁹ International Defence Advisory Board to the Baltic States, *Final Report*, February 10, 1999, p. 5.

Many of the assistance programmes will come from or be finalised in Brussels that is, NATO and the EU. Both of these large institutions are huge bureaucracies, by nature and by necessity. They have a maze of directorates, divisions and offices. During the next years there will be an encounter of bureaucracies, one of them headquartered in Tbilisi, two in Brussels. They have different mentalities and ways of behaviour. One can be critical about bureaucracies, but they are the institutions in which and through which business is conducted. Georgia needs knowledgeable guides in order to find its way through the habits and procedures and confusing policy hallways in Brussels. Nowadays, we often hear about strategies, the grand frameworks for achieving far-reaching domestic or international change. Tactics, seldom mentioned, are just as important, if not more.

Expert Western advice is necessary and helpful. The leading expert group in the Baltic was the ISAB established in 1995 at the request of the Baltic Defence Ministers. It worked with presidential offices, foreign and defence ministers, chiefs of defence, parliamentarians, senior officials and military officers. Among other things, it helped the Baltic States to understand how NATO works and, just as importantly, ISAB representations at NATO and SHAPE helped these two establishments to understand Baltic capabilities and identify what kind of assistance would be of immediate value to the Baltic States.

Strategic Calculations and Moral Considerations

Georgia has declared its intent to join NATO and the EU and we have described some of the responses of these organisations on Georgia's membership and their views on the stability and threats in the South Caucasus and the Black Sea region. In the main, Western thinking revolves around politics, economy, and security, the facts of geostrategy or geopolitics. They are based in Western security needs. They have less to do with Georgia and the Georgians and more with Western interests in the area. The area can be designated as the Southern Caucasus or the Black Sea area--according to what specific issue is being looked through the eyes of which particular state or institution. States formulate their policies by prioritising threats or benefits, that is, tangible things. But there are intangibles as well, among them, moral factors. Moral arguments are vaguer than strategic ones, they have no relevance to state interests, and they cannot be bolstered with statistical underpinnings as, say, the data on annual oil transport. Nonetheless, they do exist and they are not ineffective. The West speaks of 'Euro-Atlantic values'. A moral case can be made why Georgia and other countries of the region should be included in the "Euro-Atlantic community".

Reflecting on the levels of motivation in the actual decisions that made over the 'why-and-how' of NATO and the EU moving eastwards, a former American Government official Ronald Asmus wrote on the importance of moral factors. From 1997 to 2000 Asmus served in the US Department of State as the Deputy Assistant Secretary of State for European Affairs, responsible for NATO and European security. There would be few people in Government affairs more familiar with the

convoluted geopolitical and geostrategic thinking that was a part of the internal, official, multi-nation discussions on enlargement. Looking back at what had taken place, he concluded “After all, it was precisely the combination of moral and strategic factors that made the case for enlarging NATO and the European Union to Central and Eastern Europe so compelling and which eventually carried both elite and public opinion. In a nutshell, that argument was based on the premise that the West had a moral obligation to undo the damage of a half-century of partition and communism and to make Europe’s eastern half as safe, democratic, and secure as the continent’s western half. Today that same argument must be extended to the wider Black Sea region”¹⁰.

What moral arguments do the nations of the region as a whole and Georgia in particular have? There are two main ones: why the two revolutions—Rose and Orange—took place and how the revolutionaries conducted themselves. Revolutions swept away ill-functioning and corrupt governing structures which had been set up by political leaders who were mainly interested in power, privilege, and profit. The sweep was done quickly, without bloodshed. The great, contentious issue that brought things to a head was democracy--fair and honest elections. Shevardnadze and Kuchma were toppled because they attempted to hold onto power with palpably fraudulent tactics. In Georgia, the parliamentary and presidential elections demonstrated a remarkable amount of civic awareness and initiative. Many voters went to the polls and they insisted that the results must be recorded fairly and accurately. In the end, power passed peacefully to the opposition. Of course, all the events in Georgia or in Ukraine cannot be seen simply as the forces of light contesting the forces of darkness. There are murky spots on the record of those who took over power in both countries and more have appeared since they attained power. However, as Asmus notes, both elite and public opinion are influenced by moral arguments and public opinion in the West matters considerably.

The aspirations of societies of Georgia and Ukraine were brought to the attention of Western societies—not just to the elites, the Western policy makers--with dramatic immediacy by unfolding revolutionary events shown by Western media, above all by television. A very knowledgeable observer of the Black Sea area, speaking to Ukraine’s parliamentarians in September 2002--that is, before the Rose and Orange Revolutions took place--reminded his listeners that ‘A Western parliament is only one institution of civic, public and democratic control. On Sunday 22 September, 400,000 people marched through London in protest against the policies of the British government.... These people arrived from all parts of the country and demonstrated their grievances without hindrance or impediment. [S]till, this was a demonstration of what we mean by civil society and what we mean by respect for it’¹¹. Civil society in Georgia and in Ukraine from all parts of their countries demonstrated what they hoped to attain. Georgia and Ukraine can build their case on that.

¹⁰ Asmus and Jackson, *op. cit.*, p. 2.

¹¹ James Sherr, ‘Parliamentary Control of the Security Sector,’ September 27, 2002, DCAF-RADA Seminar, Kyiv, Ukraine, p. 4.

NATO does not specifically list public opinion among the requirements and achievements of the countries aspiring for membership. But, less formally, Brussels has conveyed how important it is. Asmus writes about the recently admitted countries that: 'The first and undoubtedly most important of these ingredients was the will and drive of these countries--from both the leaders and their populations--to become part of Europe and the trans-Atlantic community. It is impossible to overstate just how important this factor was. The doors of NATO and the EU would never have been opened to these countries had the leaders of Central and Eastern Europe not knocked--and at times pounded on them'. The Baltic states, formerly Soviet republics, had to dig themselves out from the economic and political rubble of a collapsed economy. However, 'Absent their remarkable success in reforming and reorienting themselves to the West, the Baltic states would never have been taken seriously as candidates for either NATO or the EU'¹².

If the policy makers of Georgia and Ukraine are going to knock insistently on institutional doors in Brussels, and they have started doing that, they will have to bring with them evidence of determination and achievement. The first proof would be a serious attempt at mitigating corruption. No one can reasonably expect that it could be eradicated in a short order. It has infested Georgia's politics and society very deeply. However, it will be evident in a relatively short time whether the Government is determined to deal with the problem or whether it is sliding back to the behaviour of Shevardnadze, who publicly lamented corruption in Georgia and privately enjoyed it. There must be evidence of a real determination to deal with the thorny and difficult security and defence issues, step by step. Large, vague, optimistic announcements will not carry the day. Proclamations that Georgia will have accomplished everything required to get into the Membership Action Plan in a short order belong in the rubric of unfounded optimism. They are quite similar to the practice of the Soviet times—the announcement of a plan followed in due course by assertions that the plan had been fulfilled and exceeded, although little of substance had been accomplished. Georgia will be much better served by bringing to Brussels short, concise lists of concrete, demonstrable accomplishments.

Conclusion

We will conclude with views of Western experts who have been deeply immersed in Western policy making and security and defence transformation in the former socialist countries. The first one is that of Ron Asmus. 'Reaching out to the Black Sea countries is the natural next step in completing our vision of a Europe whole and free,' he writes. 'Today there are growing numbers of voices in the region articulating their aspiration to anchor themselves to, and eventually become full members of, the Euro-Atlantic community through membership in NATO and the European Union... Once again, the West is struggling to define what constitutes "Europe" and the "Euro-Atlantic community."

¹² Ronald D. Asmus, *Strategy for Integrating Ukraine into the West*, Conflict Studies Research Centre. Central and Eastern Europe Series (April 2004), p. 3.

At several points in the 1990s debate over NATO and EU enlargement, we faced the issue of how far membership in these institutions could or should extend. At each and every step there were Western voices calling for a pause or a cap on the process. The proponents of an open-ended approach prevailed with the moral argument that countries which had suffered longer under communism or were simply less developed should not be discriminated against or punished, but should instead have the prospect of one day walking through the open doors of our institutions once they have embraced our values and met the criteria for membership. We must press that case again today,¹³.

The second view is that of the International Security Advisory Board. Written at an earlier time, when the Board was concluding its work in the Baltic States, it comes from its *Final Report*, and the particular section quoted here is addressed to NATO. 'We believe that it is in the interests of no party for there to remain a zone of uncertainty in the Eastern Baltic. We would, therefore, welcome a clearer statement of the vision of the Western political leadership clarifying their intentions in this matter. We believe that a continuing reluctance to articulate such a vision could have a cumulatively debilitating effect on military development in the three States and, given the political capital which has been expended internally on a successful outcome, that continuing obfuscation could lead to a draining of public support for the general objectives of integration, with attendant adverse effects on the steady democratic development of the States. We believe, and hope, that the forthcoming Washington Summit will provide the opportunity for positive movement, for we see it as only reasonable and natural that the path of enlargement upon which NATO has embarked with its partners and aspirant members should, in the case of the Baltic States, be carried to its logical conclusion as soon as is sensibly possible'¹⁴. Similar sentiments might be expressed in the case of Georgia some years from now. If so, the one cited above actually would need only minor alterations, some phrases, replacing the words 'the Eastern Baltic' with 'Southern Caucasus'.

¹³ Asmus and Jackson, *op. cit.*, p. 3.

¹⁴ *Final Report*, p. 3.

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Annex 1

DCAF Programmes in Georgia

Projects 2002

- **Stock-Taking on the Standing of Security Sector Reform in Georgia**
A DCAF staff member initiated research with CCMRSS in Tbilisi mapping the Georgian security sector. See http://www.dcaf.ch/news/PfP_Reichenau1103/Papers/Fritz.pdf
- **NATO – PA Rose - Roth Seminar – Georgia** (co-sponsored by DCAF)
For a report on this seminar for parliamentarians see <http://www.nato-pa.int/default.asp?TAB=298>

Projects 2003

- **Conference – ‘Democratic Control over Armed Forces’ (Tbilisi)**
In support of the Estonian Ministry of Defence – ISAB organized three-day conference, a DCAF member participated and also presented a paper on ‘Civilians in Defence Ministries’.
- **PfP Consortium - SSR Working Group Meeting - ‘Security Sector Governance in Southern Caucasus’** Georgian security sector governance discussed at a Joint Meeting with the Regional Stability Group in Southern Caucasus and South Eastern Europe, Reichenau, Austria.
http://www.dcaf.ch/news/PfP_Reichenau1103/mainpage.html

Projects 2004

- **DCAF-IPU Handbook on Parliamentary Oversight of the Security Sector - Georgia**
Translated into Georgian during 2003 and published in March 2004. A formal press conference was held at the official launch event at the Parliament in June 2004. 1000 copies were distributed, of which c. 500 went to MPs and parliamentary staffers and the remainder to the media and civil society groups. Electronic version online from March 2004 at <http://www.dcaf.ch/handbook/publications.html>
- **UNOMIG –Policing Standards Mapping Exercise**
During late 2004 a DCAF team conducted a mapping survey, analysis and needs assessment of contemporary policing standards and needs assessment on behalf of UNOMIG at the request of SRSG Heidi Tagliavini.
- **Collection of Georgian Security Sector Laws (Security Sector Legal Assistance)**
Extant acts collected and translated into English during 2004 for publication.

Projects 2005

- **Partnership Action Plan – Defence Institution Building (PAP-DIB) Regional Conference and Training Course - Tbilisi April 2005 (with NATO IS, Georgian & Swiss Missions to NATO)**

In April 2005 two consecutive events used the conceptual framework provided by PAP-DIB to discuss the principles of democratic oversight, accountability and transparency in the context of security sector governance and to qualitatively deepen the partnership relationship between EAPC countries and those in the Caucasus and Central Asia. Participants from Armenia, Azerbaijan and Georgia attended both events. See http://www.dcaf.ch/news/SSG_Tbilisi0405/mainpage.html The conference proceedings will also be published in late 2005.

 - **NB** The event was subsequently highly commended by EAPC Ambassadors meeting at NATO IS in Brussels on 11th May, the lessons learned have been incorporated into planning discussions for a similar PAP-DIB event for Central Asia to be held in Turkey (with the cooperation of MoD Turkey) in March 2006.
- **Georgian Security Sector Laws (Security Sector Legal Assistance)**

All extant acts relating to the Security Sector translated and published in English as ‘The Security Sector Laws of Georgia’, available at:
http://www.dcaf.ch/publications/e-publications/SeSec_Georgia/contents.html
- **Georgian Security Sector Governance Self-Assessment**

Completing the research begun in 2002, the findings of CCMRSS’ research were published along with papers by Western experts mapping the current status and prospects of the Georgian Security Sector as ‘After Shevardnadze: Georgian Security Sector Governance After the Rose Revolution’ available at:
http://www.dcaf.ch/publications/e-publications/Georgia_SSGovernance/contents.html
- **National Security Policy of Georgia**

Subsequent to commenting on the draft version for the Parliament, subsequent to its ratification DCAF will publish an English translation.
- **Translation Programme**

During 2005 DCAF studies on the **Transformation of Police in Central and Eastern Europe**, and the **Intelligence Oversight Handbook** will be translated into Azeri and Georgian.

Annex 2

DCAF Publications about Georgia and the Caucasus 2000-2005

DCAF-IPU Handbook for Parliamentarians on Oversight of the Security Sector (Georgian Version)

Fluri, Philipp H., Johnsson, Anders B., Born, Hans (eds), *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, (Geneva: Inter-Parliamentary Union and Geneva Centre for the Democratic Control of Armed Forces, 2002)

http://www.dcaf.ch/publications/epublications/Handbook_georgian/contents.html

Articles and Books on Georgia and the Caucasus

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http://www.dcaf.ch/publications/e-publications/Georgia_SSGovernance/contents.html

Ebnöther, Anja H., and Gustenau, Gustav E. (eds.), *Security Sector Governance in the Southern Caucasus – Challenges and Visions*, National Defence Academy, Vienna, 2004.

http://www.dcaf.ch/publications/epublications/SSG_southerncaucasus/contents.html

Fluri, Philipp, *The Security Sector Laws of Georgia*, (Tbilisi, 2005)

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http://www.dcaf.ch/publications/epublications/SSR_book/8.Osidge_Haindrava.pdf

DCAF Conference Proceedings

“Security Sector Governance in Southern Caucasus Challenges and Visions,” *DCAF Workshop*, Reichenau, 21-24 November 2003,
http://www.dcaf.ch/news/PfP_Reichenau1103/mainpage.htm

DCAF Conference Papers presented at the Joint Meeting of the PfP-Consortium Security Sector WG together with the Regional Stability in Southern Caucasus Study Group: “Security Sector Governance in Southern Caucasus - Challenges and Visions.”

Darchiashvili, David, ‘Georgian Security Sector: Achievements and Failures,’ *Workshop Paper*, Reichenau, 21-24 November 2003,
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Harutyunyan, Aram, ‘Armenia as a Factor of Balance in the Southern Caucasus,’ *Workshop Paper*, Reichenau, 21-24 November 2003,
http://www.dcaf.ch/news/PfP_Reichenau1103/Papers/Harutyunyan.pdf

Hiscock, Duncan, ‘The Role of Civil Society in Security Sector Governance in the South Caucasus,’ *Workshop Paper*, Reichenau, 21-24 November 2003,
http://www.dcaf.ch/news/PfP_Reichenau1103/Papers/Hiscock.pdf

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http://www.dcaf.ch/news/PfP_Reichenau1103/Papers/Johnson.pdf

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DCAF Conference Presentations given at the Joint Meeting of the PfP Consortium Security Sector Reform WG together with the Regional Stability in Southern Caucasus Study Group: "Security Sector Governance in Southern Caucasus - Challenges and Visions."

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Felberbauer, Ernst, 'Security Sector Governance in Southern Caucasus – Challenges and Visions,' *Conference Presentation*, Reichenau, 21-24 November 2003, http://www.dcaf.ch/news/PfP_Reichenau1103/Presentation/Felberbauer.htm

DCAF Working Papers about the Caucasus

Fluri, Philipp, 'Former Soviet Union: Security Sector Reform in the Southern Caucasus', *DCAF Working Papers*, No. 110, February 2003, http://www.dcaf.ch/publications/Working_Papers/110.pdf

Annex 3:

About DCAF

1.1 The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

The Geneva Centre for the Democratic Control of Armed Forces (DCAF), established in October 2000 on the initiative of the Swiss government, encourages and supports states and non-state-governed institutions in their efforts to strengthen democratic and civilian control of armed and security forces, and promotes international cooperation in this field, initially targeting the Euro-Atlantic area. To implement these objectives, the Centre:

- collects information, undertakes research and engages in networking activities in order to identify problems, to establish lessons learned and to propose the best practices in the field of democratic control of armed forces and civil-military relations;
- provides its expertise and support to all interested parties, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, academic circles.

DCAF works in close cooperation with national authorities, international and non-governmental organisations, academic institutions and individual experts. In its operational and analytical work, DCAF relies on the support of 46 governments represented in its Foundation Council, on its International Advisory Board comprising some 50 renowned experts in the field of defence and security, on its Think Tank, Outreach, and International Projects Departments.. The Centre has established partnerships or concluded cooperative agreements with a number of research institutes and with several international organisations and inter-parliamentary assemblies.

In order to be able to thoroughly address specific topics of democratic control of armed forces, DCAF has established dedicated working groups covering the following issues: security sector reform; parliamentary oversight of armed forces; legal dimension of the democratic control of armed forces; transparency-building in defence budgeting and procurement; civilian experts in national security policy; democratic control of police and other non-military security forces; civil-military relations in conversion and force reductions; military and society; civil society building; civil-military relations in post-conflict situations; criteria for success or failure in the democratic control of armed forces; civil-military relations in the African context. Planning, management, and coordination of the working groups is centralised in DCAF's Think Tank.

DCAF provides its expertise on bilateral and multilateral levels, and also addresses the interests of the general public. A number of bilateral projects in the areas of security sector reform and parliamentary

control of armed forces are underway within the states of South Eastern and Eastern Europe. At the multilateral level, DCAF implements several projects in the framework of the Stability Pact for South Eastern Europe, the Organisation for Security and Cooperation in Europe, NATO, Council of Europe, and the United Nations. The Centre regularly produces publications, organises conferences, workshops and other events. It uses information technology, including its own website (<http://www.dcaf.ch>), to reach both target audiences and the general public.

DCAF is an international foundation under Swiss law. Forty-six governments are represented on the Centre's Foundation Council.* The International Advisory Board is composed of the world's leading experts on the subjects of defence and security, who advise the Director on the Centre's overall strategy. DCAF is staffed by some 50 specialists of more than 20 different nationalities,

The Swiss Federal Department of Defence, Civil Protection and Sports finances most of the DCAF budget. Another important contributor is the Swiss Federal Department of Foreign Affairs. Certain member states of the DCAF Foundation support DCAF by seconding staff members or contributing to the Centre's specific projects.

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Annex 4

The DCAF Legal-Political Assistance Group (LPAG)

The DCAF Legal-Political Assistance Group (LPAG) (<http://www.dcaf.ch/lpag/about.html>) was set up in 2002 to meet a growing demand from parliaments for assistance with their law-making activities. The LPAG is a non-permanent body of renowned experts on legal and law-making matters who may constructively assist with the theoretical and practical aspects of legislative activity. Jointly operating under the direction of the DCAF Deputy Director and Head of International Projects, LPAG members are invited to collaborate on projects that are suited to their particular expert fields.

Collaboration usually takes the form of attending and contributing papers at a conference, participating in workshops, and/or critically commenting on legal texts. In each country where the LPAG operates, DCAF seeks to collate and publish in written and electronic form the collected security sector laws of the country concerned. The laws are also added to the DCAF legal database (<http://www.dcaf.ch/legal/intro.htm>)

Mandates for cooperation with the LPAG currently exist with the following institutions:

- The Russian State Duma Defence Committee
- Ukrainian Verkhovna Rada Foreign Relations Committee
- The Parliament of Georgia
- The CIS Parliamentary Assembly in St. Petersburg

LPAG Activities 2002-2004

Conferences

In the CIS (in cooperation with the Centre for Political and International Studies (CPIS)).

Round-Table discussions of draft laws in the context of international good practices have taken place in Russia in cooperation with the Centre for Political and International Studies (CPIS).

- November 2002 Moscow – CIS Model Laws on Parliamentary Oversight of Armed Forces and Civil Military Relations
- November 2003 Moscow – CIS Draft Model Law on Peacekeeping
- Model Law unanimously adopted at the 23rd Session of the CIS Inter-Parliamentary Assembly April 17th, 2004.

Conferences have also taken place in Ukraine in Kiev (September, December 2002 – Ukrainian law draft on Parliamentary Oversight of Armed Forces).

- December 2002 Kiev - Hearing on Money-Laundering (in cooperation with Rada Foreign Relations Committee and NATO representative to Ukraine), leading to legislation on Money-Laundering
- September 2002, December 2002, February 2003, September 2003 Kiev - Hearings on Parliamentary Oversight of Armed Forces and Security Sector Law
Draft law on Oversight issues accepted February 2003.
LPAG members have also participated in the workshops and conferences of 2004 Ukraine programme
- May 2004 Kiev - DCAF-Rada-NIISP Conference on ‘Ukrainian Security Sector Reform’
- April & July 2004, Kiev - DCAF-Rada Roundtable ‘Parliamentary Oversight of the Security Sector – Defence Budget Transparency and Parliamentary Powers’.

Seminars

Members of the LPAG also participate in DCAF’s Civil Society Working Group’s ‘The Civil Society Building Project (CSBP) in Russia’. The Project’s activities consist of ten seminars in Moscow on various aspects relating to civil society with particular emphasis on

legislative aspects. The Working Group's activities form a complementary adjunct of the LPAG. The proceedings are being published and widely distributed to political and academic institutions in Russia and other Former Soviet countries.

Inventories of Security Sector Legislation

Russian and English versions of the Russian Federation's security sector laws have been published in Moscow in December 2002 (Russian) and March 2003 (English) in cooperation with the Centre for Political Centrism in Moscow. This is now a template for the type of cooperation and publication sought with LPAG partners. Similar inventories are being established for Ukraine and Georgia.

Members

LPAG members are invited to activities according to their specializations and the needs identified by the respective parliaments.

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Dr. Dov Lynch *Research Fellow, ISS EU Institute for Security Studies, Paris, France*

Mr. Leigh Merrick *Former NATO Representative to Ukraine, UK*

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