DCAF REGIONAL PROGRAMMES

THE LEGAL FRAMEWORK OF SECURITY SECTOR GOVERNANCE IN GEORGIA

Mindia Vashakmadze

2014

DCAF
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The Geneva Centre for the Democratic Control of Armed Forces

The Legal Framework of Security Sector Governance in Georgia

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Geneva-Tbilisi, 2014

The publication of this book has been funded by the Directorate for Security Policy (SIPOL) – Swiss Federal Department of Defense, Civil Protection and Sports.

ISBN 978-92-9222-335-9

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Preface

Harmonising the legislative acts of a country with best practice, eliminating inconsistencies and contradictions and making the laws universally known to all citizens and accessible is the most basic requirement for the establishment of the Rule of Law. The Geneva Centre for the Democratic Control of Armed Forces (DCAF) would like to congratulate the Georgian Parliament and Government on the efforts made and achievements accomplished in this respect in recent years.

DCAF has been and is assisting a number of its 62 member governments in law-making. Georgia is one of the countries which has both been accepting and sharing expertise repeatedly[1]. We are convinced that other countries will also profit from this publication and the legislative experience on which it is founded.

I would like to thank Dr. Mindia Vazhakmadze for his diligent and thorough work most cordially.

Geneva, August 2014

Philipp Fluri, Ph.D.
Deputy Director DCAF

[1] See e.g. "Democratic Control Over the Georgian Armed Forces Since the August 2008 War", *Tamara Pataraia* – 2010
"Building Integrity and Reducing Corruption in Defence", *Editor(s): Todor Tagarev*, 2010
"Integrity Self-Assessment Process – A Diagnostic Tool for National Defence Establishments", *Hari Bucur-Marcu* – 2009
"After Shevardnadze: Georgian Security Sector Governance after the Rose Revolution", *Editor(s): Philipp Fluri and David Darchiashvili,* 2006
"Security Sector Laws of Georgia", *Editor : Philipp Fluri* – 2005

I. Introduction

There is no unified and universally recognised definition of what constitutes the security sector. A report by the UN Secretary-General (A/62/659) on security sector reform defines the security sector broadly and includes the list of its basic elements.[2] According to this definition, the security sector includes the structures, institutions and personnel that take responsibility for the management, provision and oversight of security in the country. This document also determines the main essence of security sector reform.[3] According to this definition, the security sector reform aims at ensuring the security of the state and its people. Security sector activities should be in compliance with the rule of law and norms of international law.

This review does not represent a fundamental analysis of the regulations for the Georgian security sector. Its objective is to describe an active

[2] According to this definition, "a broad term often used to describe the structures, institutions and personnel responsible for the management, provision and oversight of security in a country. It is generally accepted that the security sector includes defence, law enforcement, corrections, intelligence services and institutions responsible for border management, customs and civil emergencies. Elements of the judicial sector responsible for the adjudication of cases of alleged criminal conduct and misuse of force are, in many instances, also included. Furthermore, the security sector includes actors that play a role in managing and overseeing the design and implementation of security, such as ministries, legislative bodies and civil society groups. Other non-State actors that could be considered as part of the security sector include customary or informal authorities and private security services".

[3] According to this definition, security sector reform is "a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law". See also *The United Nations SSR Perspective*. According to the report of the UN Secretary-General submitted on August 13, 2013, "the objective of security sector reform is to help ensure that people are safer through the enhanced effectiveness and accountability of security institutions operating under civilian control within a framework of the rule of law and human", "Securing States and societies: strengthening the United Nations comprehensive support to security sector reform" (Report of the Secretary-General) S/2013/480.

legal base and to show its drawbacks or possibilities for further improvements. Norms regulating the system of the Armed Forces, Ministry of Internal Affairs, intelligence and counterintelligence activities as well as the Border Police will be briefly reviewed. The issue of enhancing parliamentary control of security sector activities is particularly emphasized in the comments.

With ongoing legislative changes in Georgia in the background, it is necessary to update such a review periodically concerning the regulatory legislation of the security sector. In addition, judging by the framework of the comment it will be impossible to make a profound analysis concerning the problematic issues of ongoing security sector reforms. Such an analysis regarding the issues of particular importance requires separate research. This comment looks at not only the legal base regulating the activities of the security sector but also indicates the problems of effective implementation of principles and norms considered by the law in force.

II. Constitutional Framework of the Georgian Security Sector

The Constitution of Georgia and Delegation of Powers within the Security Sector

The Constitution of Georgia, adopted on August 24, 1995, has been amended several times since. Among its provisions, it reflected the constitutional principles regulating the security sector.[4] The current Constitution strengthens the principle of the functional delegation of powers. It significantly empowers the Parliament to control the executive branch of government (Article 48).[5] The Constitution consolidates different forms of parliamentary control (see, for example, Article 59). Parliament holds the levers for control over the activities of the executive.

The president is the supreme commander-in-chief of the armed forces (Article 69, Paragraph 2). He/she appoints and dismisses officials. With the consent of the government he/she negotiates with foreign states and international organisations (Article 73, Paragraph 1a), declares a state of war and emergency (Article 73, Paragraph I h, i) and carries out other authorities.

In 2013, due to constitutional amendments, the powers of the president were reduced and authorities of the government and prime minister over the security sector were increased.[6] The president, for example, now does not have a right to dismiss the government individually and to appoint new members without the consent of the Parliament. According

[4] For a review of the active legislation at an earlier stage of security sector reform, see M. Vashakmadze, "Democracy and Security: The Legal Framework for Security Sector Governance", in Ph. H. Fluri and Eden Cole, *From Revolution to Reform: Georgia's Struggle with Democratic Institution Building and Security Sector Reform*, Vienna, (2005): 25-50.

[5] The Parliament determines the principal directions of domestic and foreign policy, and exercises control over the activity of the Government within the framework determined by the Constitution.

[6] See the text of the Constitution, available on the website of the Parliament of Georgia, www.parliament.ge.

to the definition of the Venice Commission, the power of the Parliament increased in the legislative branch but its budgetary power was limited.[7] Even at the conclusion of 2010 concerning the constitutional amendments, the Venice Commission indicated the necessity of increasing the powers of Parliament.[8]

Chapter 7 of the Constitution refers to state defence. According to Article 98, Paragraph 3, the president of Georgia shall approve the structure of the armed forces, while the strength thereof shall be approved by the majority of the number of the members of Parliament on the current nominal list, upon the submission of the National Security Council. The National Security Council is granted ample powers in defence and security. According to Article 99, Paragraph 1, it is set up with the view of organizing the military structure and defence of the country, and carries out its functions under the guidance of the president of Georgia. The Constitution does not consider the mechanism of accountability and control.

Article 100 of the Constitution is worth mentioning as it shares powers of the Parliament and the president in how to use the armed forces. The president adopts a decision on the use of the armed forces and the Parliament approves it within 48 hours. It should be noted that the Constitution does not consider the consent of the Parliament after using the armed forces, i.e., according to the Constitution, for the purpose of saving time and with the hope of gaining the consent of the Parliament, the president cannot avoid parliamentary examination and make the individual decision on using the armed forces.

In addition, "the use of the armed forces for honouring international obligations shall be impermissible without the consent of the Parliament of Georgia." This issue will be considered in detail when discussing the law regarding Georgian Armed Forces in the participating in peacekeeping operations.

According to the practices of democratic states, the Parliament shall approve limitations on the use of the Armed Forces within the country in

[7] Venice Commission, Opinion on Three Draft Constitutional Laws Amending Two Constitutional Laws Amending the Constitution of Georgia, 15 October 2013, CDL-AD(2013)029, para 57.

[8] "The Commission considers … that it would be desirable to further strengthen the powers of parliament. In this respect, the provisions on the formation of the government and especially those on the motion of non-confidence as well as those about the parliament's powers in budget matters should be reconsidered", Venice Commission, *Final Opinion on the Draft Constitutional Law on Amendments and Changes to the Constitution of Georgia*, 15 October 2010 CDL-AD (2013) 028, para 111.

the matters of human rights by adopting the relevant law. The Constitution states that the president can limit individual rights; however, he must submit the decision to the Parliament for approval.

According to Article 100, Paragraph 2, "For the purpose of state defence in the exclusive cases and in cases envisaged by law, the decision about the entrance, use and movement of the armed forces of another state on the territory of Georgia shall be adopted by the president of Georgia. The decision shall immediately be submitted to the Parliament for approval and shall be enforced after the consent of the Parliament". This article of the Constitution strengthens the role of the Parliament with respect to the head of state. Judging by the provision, the Parliament shall consider and approve not only the deployment of troops from another country on the territory of Georgia but also their further use and movement.

Participation of Georgia in international peacekeeping missions raises questions about the role of the Parliament and the effectiveness of parliamentary control mechanisms. The Parliament cannot exercise everyday control over the armed forces deployed outside the country. To comply with the principle of functional division of powers, Parliament's main objective is to fulfil the legislative function and democratic control over the activity of government, but the executive government should maintain certain flexibility while making decisions about the defence and security issues. However, Parliament should also be able to carry out further control from the moment of deploying armed forces abroad.

Preventive parliamentary control is comparatively weak. Parliamentary control in frequent cases acts in response to the activity of the executive and, consequently, it has a less preventive character, i.e., it is often conducted quite ineffectively. The same can be said regarding current parliamentary control. It is obvious that the Parliament should not check every deployment of the armed forces on the territory of a foreign country (or even within the country), but it should be able to determine the main parameters of the troops' location and systematic control. The current parliamentary control has not been performed over certain spheres. It is necessary to strengthen control over military procurements and also treaties of different types. It is important to use the mechanisms of effective accountability in practice regularly; therefore, the further control of the Parliament should also be intensified.

Generally, civilian control of the deployment of Georgian armed forces outside the country (or within the country) is weak, too. It is worth men-

tioning that the death of seven soldiers in 2013 in Afghanistan[9] made social organisations more active. They questioned the reasonableness of Georgian troops in Afghanistan. Media scrutiny was also felt regarding this issue. Correspondingly, the representatives of Parliament had to submit detailed justification to Georgian society why Georgian units are or have to be on the territory of Afghanistan.

Despite the abovementioned facts, the legislative branch plays an increasingly important role in the governance and control of the security sector. However, it is necessary to maintain the model of functional delegation of powers, especially with regard to the armed forces. According to this model, it is significant to have democratic control of the armed forces. However, effectiveness of the executive and necessary scope of action for managing and using Armed forces should also be promoted. It is necessary to delegate functions properly based on the Constitution and its legislation. The Parliament, as well as the government, should not exceed the powers granted by the Constitution.[10]

[9] AJ Rubin and T Shah, "Taliban Attack Kills 7 Georgian Soldier in Afghanistan" *The New York Times*, 7 June 2013. Available at http://www.nytimes.com/2013/06/08/world/asia/taliban-attack-base-guarded-by-georgians-in-afghanistan.html?smid=fb-share&_r=2&

[10] The Constitutional Court considers disputes on competence between state bodies..

III. National Security

The National Security Concept of Georgia

The National Security Concept of Georgia, adopted in 2012, determines national values and interests, threats and challenges, and the main directions of security policy.[11] According to the concept, Georgia aims to create a security system that guarantees the further development of Georgian statehood and the security of its citizens.[12]

The main directions of the security policy among other issues include developing state institutions, strengthening democracy, and implementing the engagement policy. According to the concept, the cornerstone of the state security system reforms is the National Security Review process that includes institutionalized policy coordination among state agencies, increased cooperation between military and civil institutions, and the development of specific strategies for all agencies involved in the security sector.[13] Obviously, it is necessary to develop further the legislative base, which will enable the real and effective implementation of these reforms.

Creating a unified and effective system of crisis management is a significant priority security policy. This system should be established on a legislative foundation and it should ensure the ability to forecast possible crises and their prevention.

Strengthening the country's defence capabilities is the main intent of Georgia's security policy. It considers education and training system compliance with contemporary standards, further development of the personnel management system, improvement of the command and control system, and increased interoperability with NATO. It is particularly important to establish close cooperation among the military and civilian components related to crisis management.[14] Accordingly, it is required to review Georgian legislation to ensure that it enhances the fulfilment of these objectives.

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[11] See Analysis and Criticism of National Security Concept of Georgia, S. Neil MacFarlane, "Georgia: National Security Concept versus National Security", Chatham House Russia and Eurasia Programme Paper REP PP 2012/01 (August 2012).

[12] National Security Concept of Georgia, p.14.

[13] Ibid, p.38

[14] Ibid p.39

Interestingly, according to the National Security Concept, Georgia's defence planning is based on the principle of "total defence", which "requires the successful implementation of a civil defence system, along with related education and training, the development of proper infrastructure, and the creation of an effective military reserve".[15] The concept emphasizes that, "to develop the reserve and mobilisation system, it is important to cooperate with partner countries and to learn from their experience".[16] Respectively, the legislative base needs to be revised.

According to the concept, "the increased interoperability of the Georgian Armed Forces with NATO remains the priority of Georgian defence reform".[17] The momentum of Georgian security sector reform is the cooperation of the country with NATO, and in general, the prospect of joining NATO. NATO regularly considers Georgia's current reforms and makes relevant assessments.[18] However, this approach needs to be reconsidered. Implementation of democratic reforms in the security sector should not depend on NATO membership. After the Russian-Georgian conflict in 2008 the situation changed in Georgia and the process of NATO integration somewhat slowed down.[19] Despite this, security sector reforms must be continued.

In some experts' opinion, the Security Sector Concept of Georgia does not reflect all aspects of security policy and it is intended for the internal or external audience rather than to demonstrate and analyse significant aspects of security policy. British expert S. Neil MacFarlane criticizes the concept, and claims that, "the security policy function of the Concept and its role in a framing narrative for the government in terms of internal and external audiences are in tension. To the extent that the latter overpowers the former, the utility of the concept as a basis for the development of security policy and strategy is diminished because, as a rule, national security concepts serve as the foundation for security policy rather than as instruments in domestic political debate".[20]

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15 Ibid p.39

16 Ibid p.40

17 Ibid.

18 „NATO Tells Georgia ‚Keep Up Reform Momentum'", Civil.ge November 9, 2011; see also "Joint Statement: Meeting of the NATO-Georgia Commission at the level of Ambassadors, with the participation of the Prime Minister of Georgia", 9 November 2011 Available at http://www.nato.int/cps/en/natolive/official_texts_80593.htm.

19 "Rasmussen about NATO Membership of Georgia", Civil Georgia, 27 June 2013.

20 S. Neil MacFarlane, "Georgia: National Security Concept versus National Security", Chatham House Russia and Eurasia Programme Paper REP PP 2012/01, (August 2012): 41.

National Military Strategy

The general principles of the defence of Georgia are to protect the country from direct aggression and to reach compatibility with NATO. According to the strategy, national military objectives are the following: defence, deterrence and prevention, readiness, and international military cooperation. The document also defines the essential factors for military success. They are: the flexibility of the armed forces to conduct joint operations, interoperability with NATO and participation in joint international operations, to conduct deliberate and crisis action planning, to support to civil authorities, and to develop informational capabilities.

The national military strategy determines the role of the military forces and creates its structure. According to the document, "the structure of the armed forces shall enable the rapid deployment of forces, mobility, flexibility and effective engagement in the situation". The legal base shall enhance the process of establishing such a structure. At the same time, effective parliamentary control of these processes should be provided.

The strategy grants significant functions to the National Guard, which has the responsibility "to organize and conduct combat training for the Army Reserve", and to plan and execute the mobilisation of reservists. It is also the primary force "for providing military assistance to civilian authorities in the event of emergencies".

According to the strategy, Georgian Armed Forces must be ready to resort to asymmetrical warfare, where there is no front line. It should be noted that Georgian soldiers need thorough knowledge of asymmetrical warfare, as well as legal norms and limitations in terms of such wars. Both the norms of international humanitarian law and human rights are considered here.[21] It is necessary that the entire military structure – from commanders to privates – put these norms into practice. Accordingly, programmes of military education and training should be revised in order to ensure their compliance with international standards.

[21] Regarding the difficulties about the use of international law during see the report of the Red Cross Committee: "The Use of Force in Armed Conflicts: Interplay between the Conduct of Hostilities and Law Enforcement Paradigms", ICRC November 2013.

The Cyber Security Strategy of Georgia

The cyber Security Strategy of Georgia and an action plan for implementing cyber security for 2013/2015 were approved by the order of the president of Georgia on May 17, 2013. For the last decade, the possibility of causing harm to the state through the Internet has increased, which raises the question of what means and methods should be used to minimize potential harm. The Cyber Security Strategy indicates that, "according to the situation of 2012, there is no specific law in the sphere of cyber security". In this respect, the experience of Estonia might be particularly interesting for Georgia, which (like Georgia) has already overcome an aggressive cyberspace attack. There are special laws in different countries, which should be taken into consideration in the process of working out and improving Georgian legislation.[22]

The international community, for example, actively discusses cyber security issues under the auspices of the European Union.[23] The European Parliament adopted a special directive concerning this issue.[24] Attention should also be directed to the international legal aspects in the process of working out and implementing cyber security strategy.[25] Georgian legislation in this sphere should rely on existing international practices and standards.

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[22] See additional information at NATO specialized centre website http://www.ccdcoe.org/328.html.

[23] „The European Commission proposes new cyber security legislation", 31.7.2013, http://www.wragge.com/analysis_10257.asp#.UkLsUHdc2-U.

[24] Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union, Brussels, 7.2.2013 COM(2013) 48 final http://eeas.europa.eu/policies/eu-cyber-security/cybsec_directive_en.pdf, See also Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace, Brussels, 7.2.2013 JOIN (2013) 1 final.

[25] See Tallin Manual on the International Law Applicable to Cyber Warfare (Prepared by the International Group of Experts at the Invitation of the NATO Cooperative Cyber Defence Centre of Excellence), General editor Michael N. Schmitt, Cambridge University Press 2013. See also Michael Schmitt, ‚Five myths in the debate about cyber war', http://justsecurity.org/2013/09/23/myths-debate-cyber-war/; Michael Schmitt, ‚The Law of Cyber Warfare: Quo Vadis', http://ilreports.blogspot.de/.

The Law of Georgia on Combating Terrorism

In the Law of Georgia on Combating Terrorism, adopted on June 27, 2007, the crime of terrorism is defined quite broadly.[26] However, it expresses the main essence of the crime of terrorism better in comparison with similar laws existing in the post-Soviet era. The definition of international terrorism is interesting, too, which is expressed immediately in the first article.

According to the law, the Georgian Ministry of Interior is the main authority in the fight against terrorism (Article 4), working together with the Ministry of Defence, the Intelligence Service and the Special Service of the State Security of Georgia. The law stipulates that the Ministry of Defence of Georgia organizes training and application of infantry of the Armed Forces of Georgia in case of an act of terrorism in airspace (Article 5, Paragraph 2). Counterterrorist operations are coordinated by the operative headquarters of control over extreme situations. It should be indicated that the law does not define the rule of conducting antiterrorist operation in airspace (for example, the rule of using armed forces is ambiguous in case of hijacking a civilian ship and attempting to apply it for the purposes of terrorist act. In such a case the questions are also raised regarding using armed forces in compliance with human rights matters).

Article 10 of the law defines the legal regime for the counterterrorist operational zone. For the purpose of such operations the security zone and the counterterrorist operational zone are established, which are subject to special legal regulations.

Chapter 7 of the law considers international cooperation of Georgia in the sphere of combating terrorism. The law takes into account the delivery of information and extradition of relevant persons. It should be noted here that such measures are taken in compliance with the requirements of the legislation of Georgia and international liabilities. It is essential to realize this direction in practice as far as during the process of interna-

[26] According to the Article 1 of the Law, "Terrorism is violence or menace of its application against natural or legal persons, elimination, injury or menace of elimination, damage of buildings, constructions, vehicles, communications and other tangible objects with application of arms, explosive materials, nuclear, chemical, biological or other dangerous for human life and health substances, or kidnapping through hostage taking for compelling of the authorities or any state authority or an international organisation to realize defined actions or restriction from realization of defined actions for illegal interests of terrorists."

tional cooperation it can cause a serious conflict between the standards of human rights protection and the requirements of international antiterrorist cooperation. It may occur when the recipient state uses the shared information regarding antiterrorism improperly, which might be in contrast to international standards of human rights.[27] Similar contradictions between human rights and antiterrorist measures might take place when a terror suspect is the subject of rendition and there is a threat of torture or unlawful jail or improper trial. Norms of international law are also violated when the state permits another country to use its own territory for unjustified antiterrorist actions.[28] International law also prohibits assistance in unjustified actions as such. Therefore, in this respect, while planning and implementing international or national antiterrorist actions it is important to take into consideration human rights standards and also other norms of international treaties and customary law imposing certain liabilities on states.[29]

This law considers parliamentary and presidential control, supervision of the prosecutor, and also budget control conducted by the Chamber of Control over combating terrorism.

It should be mentioned that, in frequent cases, anti-terrorist operations are connected with the use of the armed forces within the country. This circumstance must be under parliamentary control. It is desirable that the Parliament regulates the use of the armed forces within the country by the legislative rule and subordinates it to parliamentary control.

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[27] See, for example, the current case against Poland considered by the European Court of Human Rights in which the applicants blame the state of Poland for allowing the US Central Intelligence Agency (CIA) to carry out certain antiterrorist operations on Polish territory. O. Bowcott and I. Cobain, "Guantanamo Bay detainees claim Poland allowed CIA torture", *The Guardian* December 3, 2013. http://www.theguardian.com/world/2013/dec/03/guantanamo-cia-rendition-torture-poland

[28] See Council of Europe Assembly Report "Committee on Legal Affairs and Human Rights, Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states, Draft report" (Explanatory memorandum), June 7, 2006. It is mentioned in this report that, in some cases, there were attempts of Parliamentary investigation of this issue. See also the final report of the official inquiry conducted by Great Britain, "The Report of the Detainee Inquiry", December 2013. Available at https://www.gov.uk/government/publications/report-of-the-detainee-inquiry.

[29] See, for, example, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, *Framework Principles for securing the accountability of public officials for gross or systematic human rights violations committed in the context of State counter-terrorism initiatives*, A/HRC/22/52, 1 March 2013.

The institution of parliamentary inquiry should also be strengthened, which is one of the significant forms of parliamentary control. It is important not only for democratic principles but also in ensuring the rule of law. There are some cases known from the recent practices of Georgian armed forces when anti-terrorist operations were conducted under quite mysterious circumstances, which raised a lot of questions from the point of view of its expedience and compatibility with law.[30] However, legal liability of the structures and people concerned has not been raised yet, nor it has become the subject of a serious parliamentary discussion or control.[31]

It is important that Parliament exercises control over the use of the armed forces in anti-terrorist operations and also checks potential limitations of human rights that are related to the legal regime of counterterrorism. In this respect, the experience of other countries where the legislative authority maintains effective control over implementing counterterrorist operations is useful for Georgia.

Besides, it is necessary to separate distinctly the roles of the military, police, and Ministry of Interior Affairs from each other in this sphere. Struggling against terrorism should mainly be the task of the police and Ministry of Interior Affairs. Use of the armed forces should clearly be regulated by law and be under the control of the Parliament. Armed Forces should maintain the prerogative to assist the state police and other civilian structures to overcome terrorist threats in certain cases defined by law.

Organic Law of Georgia on the National Security Council

The National Security Council of Georgia is an advisory body of the president of the country for organizing and decision-making on matters related to the military and national security. According to the Organic Law on National Security Council adopted on November 11, 2004, together with other essential competencies the Council ensures development of the concept of national security that is approved by Parliament by a

[30] See Radio Free Europe / Radio Liberty (Caucasus Report), 'Mastermind behind Georgian-Chechen Shoot-out still not identified', 4.9.2013, http://www.rferl.org/content/caucasus-report-georgia-chechen-shoot-out-anniversary-mastermind/25095633.html; J Kucera, 'Did Saakashvili's Government recruit and train Chechen militants?' Eurasianet, 5.9.2013, http://www.eurasianet.org/node/67468.

[31] See the same material.

majority of the members on the current nominal list, upon the submission of the president (Article 2(1)).

The Secretary of the National Security Council is an assistant to the president on questions of national security. He/she is accountable only before the president of Georgia (Article 4 Paragraph 2). The law grants broad authority to the Secretary of the National Security Council. For example, he/she coordinates management of all types of crisis situations containing the threat to national security at a highest political level.

Sessions of the National Security Council, as usual, are closed. Only by the decision of the president of Georgia it can be declared open (Article 5, Paragraph 2).

Thus, the National Security Council has sufficiently broad powers in the defence, military and security matters that are of vital importance for the country. Also taking into account the fact that the activity of the Council is not distinguished by transparency, lack of the democratic parliamentary control over the Security Council is more visible. Its decisions are not compulsory for the president but it has a significant influence on the state security policy. It can be said that the Council strengthens the president's position in national security and defence matters.

It would be desirable that the legislation considered the accountability mechanism of the National Security Council before the Parliament.

Law of Georgia on State Secrets

The information deemed to be a state secret is defined by the Law on State Secrets of October 29, 1996. Article 42 of the General Administrative Code of Georgia defines the information that may be classified. The law also defines the competencies of relevant state agencies.

Based on the law adopted in 2013, presidential powers were reduced in the sphere of regulating state secrets. Amendments were made in Article 34 of the law, which regulates restrictions on handing over a state secret to another state. Correspondingly, legislative amendments of April 2013, made it easy to hand over the information containing state secrets to the partner countries participating in peacekeeping missions. Before that, similar information was shared on the basis of ratified international agreements or Presidential Orders. As a result of the legislative amendments, it is not necessary to follow these procedures.[32] Simplification of

[32] Law of Georgia on Amendments to the Law of Georgia on State Secrets, 31 May, 2013, N 682-II

procedures should not cause a weakening of control mechanisms of secret information sharing or in handing it over. Such information should be transferred in accordance with the Constitution, laws and international liabilities.[33]

Classification of information should take place in compliance with the law's requirements. In this view, the misinterpretation possibilities of the law by the state agencies should be limited. It can be done only by forming relevant criteria clearly in the legislation. Practice proves that the unlawful classification of information can cause a dispute.[34]

[33] For the issues about obtaining, sharing and using secret information, see Michigan Journal of International Law 27 (2006) which reviews different aspects of this problem.

[34] For example, see the statement of Georgian Young Lawyers' Association 'Agreement made by Georgian Government with lobbying agencies is a secret only in Georgia' http://gyla.ge/geo/news?info=365.

IV. Defence and the Armed Forces

Law on Defence

This law of October 31, 1997, defines state defence as a combination of political, economic, military, social, legal and other actions providing protection of the state, the population of Georgia, its territory and sovereignty from an armed attack (Article 2, Paragraph 1).

According to this law, the Parliament of Georgia has broad powers in the sphere of defence. Article 4 of this law defines the main directions of defence policy, passes laws, controls the defence budget, and ratifies international treaties and agreements on defence issues. The law also determines the presidential and parliamentary powers in the sphere of defence.

It should be noted here that the parliamentary control over military procurements and the defence reforms need to be strengthened. However, this type of control should not be limited to the measures conducted by the Defence and Security Council. The whole Parliament should be involved in this process, which will improve the democratic accountability of defence structure.

Chapter 3 of the law considers the purpose, structure and management of the Georgian Armed Forces. The principal purpose of the armed forces is to protect the sovereignty and territorial integrity of the country as well as to participate in international peacekeeping missions. According to the law, it is not admissible to use military forces during a state of emergency or for performance of international commitments without the consent of the Parliament.

Article 8 of the law states that the Georgian Military Forces consist of the Armed Forces but during wartime it contains subordinated establishments of the Georgian Ministry of Internal Affairs, such as the Georgian Border Police. Thus, legislation of Georgia strengthens the narrower understanding of the armed forces and in that way it is distinguished from some post-Soviet countries where the armed forces combine armed formations of the Interior Ministry, Security Services and other bodies.

Defence sector reform, which started as a result of Georgia's aspirations to NATO, is being continued. While implementing this reform, spe-

cial attention should be paid not only to strengthening the effectiveness of Georgian troops and the military structure but also to its compliance with internationally-recognised standards, especially in the aspects of democratic control.[35]

Law of Georgia on Defence Planning

The Law on Defence Planning was adopted on April 28, 2006. Right in Article 1 it emphasizes that defence planning supports "the proper implementation of the process of integration of Georgia into the North Atlantic Treaty Organisation". In Paragraph 3 it indicates that defence planning and, accordingly, documents on defence planning, may be reviewed if Georgia joins NATO, the national security environment changes, or signs of the change in the national security environment appear. It is obvious that this act and also the acts of legislative or more conceptual political nature in the sphere of defence were accepted for the purpose of Georgia's one-day accession to NATO.[36] However, it is clear that legislative means only cannot accelerate significantly the process of Georgia's accession to NATO. For the moment, Georgia's membership process has slowed.

At the state level, organisation of defence planning is determined by the National Security Concept of Georgia, which was also issued within the framing principle of access to NATO.[37] Article 6 of this law lists strategic-level legal acts of defence planning as follows: the National Security Concept of Georgia, Threat Assessment Document of Georgia and the National Military Strategy of Georgia. It is questionable how reasonable it is to consider these acts as legislative. They are documents of political importance rather than laws or vested acts.

The Ministry of Defence of Georgia plays a leading role in the process of defence planning, although the details of its authorities in this sphere

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[35] See, for example, the document on the Defence Sector Reform prepared by United Nations Department. Annex One of this document contains the list of international norms and standards to be respected steadily during the process of defence and security sector reforms as a whole; United Nations Departament of Peacekeeping Operations, ‚Policy: Defence Sector Reform', June 27, 2011.

[36] See ‚The NATO Defence Planning Process', http://www.nato.int/cps/en/natolive/topics_49202.htm

[37] See Analysis and Criticism of National Security Concept of Georgia, S. Neil MacFarlane, Georgia: National Security Concept versus National Security, Chatham House (Russia and Eurasia Programme Paper 2012/01).

are not specified in the law. According to Article 11, the Defence and Security Committee of the Parliament of Georgia provide strategic oversight of defence planning. Including this type of provision in the text of the law should be assessed positively; however, the law itself does not indicate the mechanism of the general parliamentary oversight. Nevertheless, it should not be understood that the law limits parliamentary control over the defence planning by overseeing actions of the Defence and Security Committee. It is necessary to have more intensive cooperation between the legislative and executive branches.

Concept of the Defence Reserve System of Georgia

In March 2012, the Concept of the Defence Reserve System of Georgia was elaborated, which takes into consideration lessons learned during the August 2008 war and drawbacks exposed in the reserve system. The document underlines that particular importance should be attached to increasing the effectiveness of the reserve system. According to the Concept, the priority for Georgia is to develop a reserve system that will be capable of carrying out tasks to defend the territory of the country and its population in the case of war and, at the same time, to provide aid to the civil authorities in case of natural disasters.

The document lays out the principles of the Defence Reserve, its structure, system management and plans the perspectives of future development. The Concept states that active involvement of the population is necessary to implement an effective reserve system. It also stresses the need for close cooperation with the civil sector for their involvement in the ongoing processes and raising awareness of the reserve. However, the Concept does not specify the forms of engagement of the population and the civil sector.

It should be noted that in some countries the reservists are obliged to fulfil a number of tasks related to the security and stability within the country together with other objectives. For example, according to the relevant German concept of 2012, the reservists are tasked with such functions. Simultaneously, it represents a kind of intermediate link between the armed forces and the civilian community.[38]

[38] 'Die neue Konzeption der Reserve', 1.2.2013, At the following websiteyou can also see the Concept of German Reserve which is a fairly comprehensive document and comprises 46 pages http://www.bundeswehr.de/portal/a/bwde/!ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP3I5EyrpHK9pPKUvL3ikqLUzJLsosTUtJJUvaLU4tSislS97Py8qtQCkAb9gmxHRQDEfL_A/.

Law of Georgia on the Military Reserve Service

The Military Reserve is created to support the active military forces. According to the law, the military reserve forces are divided into three categories: the active reserve, the purpose of which is to maintain a high personnel readiness; the National Guard reserve, which aims to participate in rear operations; and the individual reserve, whose aim is rotation and supplementation of military subunits (Article 2. Paragraph 3). This law also regulates the recruitment of the military reserve force, the call up for the military reserve service, the age of the military reserve service, responsibility for those evading military reserve duty, and other issues.

Since August 2008, developing an effective reserve system for wartime has been of particular importance. Currently, the military reserve system is based on the principle of Total Defence, according to which the proper training of the local population for combat or emergency situations should be provided. It is essential to establish the relevant effective control over recruitment and use of the reserve. It is particularly necessary to increase the training level of reservists, underscored by Georgia's recent military history. Without training and increased effectiveness of the reserve, it will not be capable to carry out its tasks. It is also necessary to improve the management, coordination and control of the reserve.

Law of Georgia on Military Mobilisation

The Law on Mobilisation of June 23, 1999, defines the procedures and principles of mobilisation. It delegates competencies among state authorities. The Parliament of Georgia has significant powers in the sphere of mobilisation. It defines the state policy of mobilisation, exercises its legislative regulations, approves costs, and ratifies and rejects international treaties in this sphere (Article 5). In case of war or a state of emergency, the president submits the decision about mobilisation for approval to the Parliament. The law also defines the powers of government and local self-government authorities in the sphere of mobilisation. It also lays out the rights and obligations of physical and legal entities in terms of mobilisation. The law states that in case of mobilisation, the citizens of Georgia who are enlisted in the military reserve will be called up for military service, and it defines the relevant procedures.

Law of Georgia on the Fee for Deferment from Compulsory Military Service

Article 2 of this law of June 21, 2002, defines the fee for a deferment from compulsory military service as an obligatory payment to the state budget of Georgia. The fee for an18-month deferment is 2000 laris (Article 5, Paragraph 1). This law was adopted 11 years ago and it is possible to speak about the reasonableness of maintaining or reducing the amount of the fee. It makes postponement of compulsory military service dependent on the financial status of families, which could cause further instability to socially and financially vulnerable strata within population. If citizens meet the formal requirements defined by the legislation for postponement of military service, it should not be dependent on their financial resources.

Law of Georgia on the Status of Military Servicemen

This law, dated June 25, 1998, defines the military serviceman's status within Georgia. The military serviceman is a citizen of Georgia, a person without Georgian citizenship or citizen of a foreign state who performs military service in the Armed Forces of Georgia, in the Ministry of Defence legal entities of public law, in the military departments, or the person called up for the first rank of the military reserve system. Thus, the law attempts to reflect the reforms carried out in the Georgian security sector as a result of which police and other formations do not represent parts of the military system. However, this provision indicates military departments and does not include a list of these departments.

Paragraph 5 of Article 2 is worth mentioning. According to this clause, "compensation for the partial restriction of civil rights and freedoms of military servicemen, which is connected with the special conditions of military service, shall be made according to this Law and others normative acts". Article 3 of the law determines in detail the status of the military serviceman. Paragraph 3 of this article states that, "The status of military servicemen shall be preserved, if military servicemen are captured and interned in a neutral state, if this capture is not voluntary and if a captured person has not committed acts directed against Georgia".

A military serviceman has the right to take part in elections of the bodies of government and local self-government but guarantees and rules

of military servicemen should be specified for participation in elections. In this respect, considering the experience of foreign countries would be useful.[39]

Chapter II of the law specifies comprehensively the rights of military servicemen and the guarantees upholding these rights. It also creates conditions for the limitation of these rights. Sometimes these conditions require more specifications. For example, Article 7 states that a military serviceman has the right to profess any religion, to perform religious ceremonies, providing they do not prevent the performance of official duties or create conditions for additional privileges. This provision might be explained against the targets of the law.

The necessity of strengthening the Public Defender's Institution of Georgia should be emphasized, particularly in terms of effective monitoring of the security sector. Judging by the experience of certain countries, the public defender can play an important role in the effective protection of soldiers' rights and oversight of the security sector more generally.[40]

The law determines a lump sum payment from the state budget in case of injury or death of the military serviceman. It should be mentioned that the monetary allowance is comparatively low, which needs to be reviewed in accordance with the economic development and conditions of the country. The state insurance system of military servicemen also needs to be enhanced.

Article 20 of the law defines the right of servicemen to bring in proposals, applications and complaints to the relevant official bodies. According to Article 24, Paragraph 3, a military commander (chief) shall have no right to issue an order or instruction that is illegal or unrelated to military service. It is an important provision to prevent an abuse of power by the commander or the chief,

In conclusion, it can be said that the law considers the ongoing changes in Georgian Army; however, some of its provisions need to be reviewed and specified.

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[39] See, for example, Mindia Vashakmadze, The Role of the Military in Elections, DCAF Working Paper N 159.

[40] Improving democratic oversight of the security sector, Recommendations to Ombudsman Institutions, available at http://www.dcaf.ch/Chapter-Section/Improving-Democratic-Oversight-of-the-Security-Sector-Recommendations-to-Ombudsman-Institutions.

Law of Georgia on Non-Military, Alternative Labour Service

Article 1 of this law of October 28, 1997, refers to the Universal Declaration of Human Rights, and determines non-military, alternative labour service as "the reasonable and humane compromise between the free expression of ideas, freedom of conscience, religion, beliefs and military duty". Subordinate units of the Georgian Ministry of Labour, Health and Social Protection shall regulate and organise the alternative labour service. Disputes arising from a refusal to perform alternative labour service shall be resolved by the court. The law also establishes the rules and procedures for serving in the alternative labour service.

There is a need to popularize non-military alternative labour service and to increase remuneration for citizens performing labour service. It should be noted that there is another limitation related to non-military alternative service. Citizens employed in the alternative service are deprived of the opportunity to serve in law enforcement agencies for the future. The number of persons employed in the military alternative service is rather small, which calls into question the effectiveness of the relevant legislation.

Law of Georgia on Participation of the Armed Forces in Peacekeeping Operations

Participation of Georgian Armed Forces in international peacekeeping operations is regulated by the law adopted on July 22, 1999. Article 2 of this law stipulates that the use of Georgian armed forces in peace-making activities shall not be allowed without the consent of the Parliament of Georgia. It should be noted that this provision provides for the participation in those peacekeeping operations, which may be related to coercive measures.

The law does not define additional, more specific criteria for possible instances when such coercive measures should be taken by the armed forces, and, therefore, the consent of Parliament is required. The law does not clearly establish the need for parliamentary approval for cases when coercive measures and the use of force are not expected. According to Article 3 of this law, the president of Georgia shall make a decision on the assignment of separate military personnel for executing peace-

keeping activities that are not connected with implementation of coercive measures. Thus, it is not clearly defined whether the president may designate separate military personnel to participate in such operations, or can designate an entire military unit without the consent of Parliament. In this respect, the law of Germany on "Use of Armed Forces Abroad" is very interesting in regard with the Parliament's participation in the decision-making process.[41]

As a rule, the Ministry of Foreign Affairs of Georgia negotiates a relevant international agreement or treaty, which shall subject to ratification by the Parliament (Article 6, Paragraph 1). It is likely that, in most cases, the parliamentary majority approves the executive's decision on participating in peacekeeping operations. However, the controversy between the legislative and executives branches is also possible.

It is noteworthy that Parliament is not entitled to initiate the withdrawal of armed forces, though considering the intensive participation of Georgia in international military missions, parliamentary control needs to be increased.[42] Parliamentarians should participate in delegations visiting military missions abroad.

Article 7 of this law strengthens the parliamentary position. As defined in this provision, all of Georgia's international treaties and agreements that provide for participation of peacekeeping forces in peace-making activities shall be subject to ratification by the Parliament of Georgia. And in accordance with Article 8 of this law, financial maintenance of peacekeeping forces of Georgia shall be carried out from the state budget of Georgia within the limits of the budget of the Ministry of Defence of Georgia and also from other sources. However, the law does not define what "other sources" the legislator refers to.

The law strengthens the concept of parliamentary control in other provisions as well. In accordance with this law, the Ministries of Defence and Foreign Affairs, not less often than once a year, shall submit to the Parliament of Georgia a report on the participation of the Armed Forces of Georgia in operations on the restoration and maintenance of international peace and security and in other kinds of peace-making activities (Article 10). This mechanism, however, does not ensure the *de facto* exercise of the parliamentary control over peacekeeping actions during the entire mission period.

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[41] Parlamentsbeteiligungsgesetz, 18.03.2005 (BGBl. I ??. 775). see article 2 of this law

[42] Parliament can also bring political pressure on government in order to make the latter re-examine the separate parameters of current military operations

Thereby, the current parliamentary control is rather weak.[43] All important operational decisions are made by the executive authorities (Ministry of Defence or the Ministry of Foreign Affairs). Proceeding from the functional division of power, Parliament should make fundamental decisions concerning the use of the armed forces. It is true that Parliament gives consent to participate in peacekeeping missions, but at the same time, the law does not provide for effective control mechanisms during the process of peacekeeping operations or in managing basic parameters. Furthermore, Parliament does not exercise fully its constitutional rights for control of the armed forces. The legislation should also envisage the Parliament's role during the termination of the peacekeeping mission.

On the basis of the resolution adopted on August 9, 2009, the Parliament of Georgia gave its consent for Georgian military units to participate in the international military mission in Afghanistan. From 2014 onwards the process of withdrawal of Georgian troops from Afghanistan began. However, the government is planning to implement non-combat mission in Afghanistan.[44]

The Parliament's role in such situations is not clearly defined. Other countries' experiences show that Parliament should be provided with some form of participation in the implementation process for non-combat missions.

It's advisable to further strengthen the tradition of juridical and political analysis with regard to armed forces' participation in international operations. Such evaluation, as a rule, should be provided before the final decision on participation is made. However, in some cases a post-factum assessment of participation in military operations is possible, especially

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[43] These and other shortcomings addresses the Speaker of Parliament D. Usupashvili in his Liberty Diaries: Parliament should manage to find more efficient ways of communication, collaboration, control and supervision of Defence, Security, and Police Systems i.e. of the law enforcement agencies in general. First of all, these structures themselves needs it, as far as powers are concentrated in these agencies and the state is represented by these agencies. They have a legitimate right to use force, weapons, and special means. Therefore, civic participation, supervision and permanent work with them is crucial. We have certain 'white spots' here, i.e. the system is institutionally irregular. The fact that Defence and Security Committee works, still does not mean much. We have lengthy talks with NATO officials on the above, and hopefully we'll manage to achieve something ….' see http://www.radiotavisupleba.ge/content/liberty-diaries-david-usupashvili/25045941.html.

[44] 2014 Non-combat mission of Georgia in Afghanistan", Liberali, 11.1.2013, http://www.liberali.ge/ge/liberali/articles/113594/.

when political rationality of a military operation as well as its compatibility with international law becomes doubtful.[45] In this connection it should be noted that the issue of Georgian troops' participation in the Afghan mission should have been analysed more deeply before mission commencement as well as in the course of the mission.[46] Besides, the issue of the Parliament's participation in the Iraq War has not been the subject of extensive discussions in line with international law. Parliament must consider the compliance of a military operation with international law and its foreign policy dimension.

Law of Georgia on the State of Emergency

According to the law on the State of Emergency adopted on October 17, 1997, the president of Georgia declares a state of emergency. Based on the September 6, 2013, amendments, the declaration of a state of emergency by the president needs to be countersigned by the prime minister. Such countersigning is also mandatory for presidential decrees having a legal force of laws issued in the period of a state of emergency, which should be submitted to Parliament within 48 hours for its approval. The prime minister's countersigning and the Parliament's approval are also required for the president's decision on prolonging or cancelling a state of emergency.[47] Extension or cancelation of the terms of a state of emergency also needs to be countersigned by the prime minister and approved by the Parliament. If Parliament considers that there are no grounds for maintaining the emergency, it can pass a law to cancel it.

The law also specifies that the use of the armed forces during a state of emergency or with the aim of eliminating its results, also requires the consent of the Parliament. Thus, the law grants ample powers to the Parliament. As a result of the 2013 constitutional and legislative reforms, the president's sole right with the view of declaration of a state of emergency were limited. Currently, the president shares responsibilities with the prime minister. While true that the Parliament retains its control function, such control has yet to be exercised over the actions of the presi-

[45] for additional information about Iraq war, see the special website on the UK's ongoing investigation of the Iraq war and the related materials http://www.iraqinquiry.org.uk/

[46] 'Afghan mission – the price on the way to NATO', Liberali, 7.3.2012 http://www.liberali.ge/ge/liberali/articles/110002/.

[47] See the respective law, N1022-Iს.

dent, as well as over the measures taken by the prime minister and the government. Consequently, attention should be paid to the fact that this does not weaken parliamentary control.

Law of Georgia on the State of War

According to the Martial Law of October 31, 1997, the president of Georgia is entitled to declare a state of war. Within 48 hours of the declaration of a state of war, the president shall submit his decision to the Parliament of Georgia for approval. If Parliament refuses to approve the decision of the president, the state of war will be considered cancelled **(**Article 2). Parliamentary consent is also required to prolong or cancel the term of validity during the state of war (Article 3, Paragraph 2). Article 4 of the law provides for the possibilities for restriction of the constitutional rights of some of the wartime conditions. These limitations are determined in the president's decree, which shall be submitted to Parliament for approval.

The 2013 legislative amendments limits some of the presidential powers concerning declaring and managing the state of war. These changes are aimed at conforming Georgian legislation with a new edition of the Constitution, which was enacted in 2013 after the newly elected president's oath of office. Under the new edition of the Constitution, the president is the commander-in-chief of the Georgian military forces and maintains the power of using military force, although the president's scope of action in emergency management matters is significantly limited. For example, while a state of war is declared, if certain authorities are not able to function properly, the president of Georgia may issue a decree with the prime minister's countersignature. By this decree, the legal regime of provisional government is established and the government sets up the temporary bodies or appoints an official by the respective order. Thus, the president shall not be able to make independent decisions on such issues.

In consequence of the new legislative amendments, the version of Article 9 of this law is altered. Based on this normative act, the armed forces may be employed to eliminate the results of the state of war, protect public order, and safeguard citizens. The armed forces shall be employed by presidential decree and parliamentary approval.[48]

[48] The law of Georgia "on the State of war" relating to the amendments fot this law, 6 September 2013 N 1044 Ilს

Conventional Weapons and Military Procurement

Georgia supported the Conventional Weapons Treaty. In spite of the fact that the treaty has not yet entered into force, it is mandatory to consider its provisions during military procurement activities.[49] Article 6 of the Treaty is extremely important, which states that a state party shall not authorise any transfer of conventional arms, if it has knowledge at the time of authorisation that the arms would be used in the commission on genocide, crimes against humanity, or other war crimes.

Article 7 of the treaty is of similar importance. If there is an overriding risk of any of the negative consequences given in the treaty, the exporting state party shall not authorise the export. The fact of serious risk detection is determined through an internal assessment of ammunition transfer.

Although at this stage Georgia is not forbidding arms and military equipment actively, this agreement is nevertheless remarkable. It reflects a new international consensus achieved in human rights sphere shared by Georgia as well.

Law of Georgia on the Occupied Territories

Since August 2008, foreign troops have been deployed on Georgian territory. Corresponding legislation in due form of the law on Occupied Territories was adopted on October 23, 2008. The purpose of this law is to define the status of the territories occupied as a result of the military aggression by the Russian Federation and to establish a special legal regime in the above territories (Article 1). According to this law, a state of emergency regime, as well as a special legal regime, are established in the occupied territories.

The law limits free migration of citizens of foreign countries and persons without citizenship into the occupied territories and also within the occupied territories (Article 4). It prohibits economic and commercial activities in these regions (Article 6). The law deems void any transactions related to real estate property concluded in the above territories (Article 5). It must be noted that the Venice Commission called into question the compliance of this provision with international standards. As

[49] K. Liklikadze, 'Unconventionally Difficult Way of Conventional Arms Treaty", Radio Liberty 29.9.2013 http://www.radiotavisupleba.ge/content/military/25121177.html.

the Commission rightly points out, the main objective of the measures taken over the occupied territories should be the assurance of the welfare of the citizens residing on the territories.

The law protects human rights and cultural heritage. It specifies that the Russian Federation shall be responsible for human rights violations and harm caused to the cultural heritage in the occupied territories. With regard to this provision, the Venice Commission noted that the international responsibilities of states are regulated by international law and not by domestic legislation.

There is a practical implementation problem of some provisions of the present law. For example, Paragraph 2 of Article 7 specifies that Georgian executive officials shall periodically inform relevant international organisations about human rights violations in the occupied territories. As Georgian authorities cannot exercise effective control over South Ossetia and Abkhazia, full compliance with this requirement is rather difficult.

Article 8 provides for the legal status of illegal bodies and officials. This provision identifies that any acts issued by *de facto* authorities of the occupied territories shall be deemed illegal. The Venice Commission stressed the point that, for example, if a birth or death certificate is not recognised by the government, it might be in contradiction with Article 8 of the European Convention on Human Rights.

V. Ministry of Internal Affairs, The Police

Police Reforms and Their Role, Police Code of Ethics

For the purpose of police depoliticization, the Ministry of Internal Affairs developed the Police Code of Ethics in 2013. The Code regulates a wide range of issues, including a police officer's relationships with colleagues and society. It provides for disciplinary sanctions for violations of the Code's norms. Aimed at the effective control implementation, the Ministry of Internal Affairs established a special monitoring group consisting of 50 members.

It must be noted that the Code of Ethics reflects a number of norms determined in the Georgian legislation. Thus, from a certain point of view, the Code development will contribute to building trust between police and citizens.[50] However, the problem of Georgian police depoliticization still exists. The adoption of the Ethics Code and putting it into practice should support the police in creation and development of common professional ethics, which shall bring police closer to the society and promote the further depoliticization of the police.

The Georgian Police Code of Ethics sets up the principles of policing and general guidelines of conduct for a police officer. According to the Code, the police are a state body that serves faithfully the society and is accountable to it. The Ethics Code also points out that police actions largely depend on the effectiveness of aid and support on the part of society. Strengthening public trust in the police had been a serious problem in Georgia after the collapse of the Soviet Union. Police reforms have improved the situation, but strengthening public confidence in the police still remains a serious problem, especially in light of the recently identified human rights violations.

Chapter 3 of the Code deals with the issues of police relationships with society, while Chapter 5 of the Code regulates the use of force and firearms. The Code also regulates the conduct of a police officer in the course of investigation or treatment of detainees.

[50] E. Kevanishvili, 'Police officer's conducts determine the new Code of Ethics as well', Radio Liberty 22.3.2013, see http://www.radiotavisupleba.ge/content/politsiis-etikis-kodeksi/24880487.html.

Obviously, development of the Police Code of Ethics is a step forward in terms of strengthening control over the police and gaining societal confidence. However, this is only a formality. It is necessary to establish effective monitoring over its practical implementation. In addition to this, there is a need to implement special educational measures in order to enhance the role of police as an institution serving the society.

Police Law of Georgia

On October 4, 2013, Parliament adopted the Law on Police.[51] This Law defines the basic principles of Georgian police activities, rights and duties, as well as other issues related to police activities. The legislation strengthens the status of the police as a civilian agency functioning within the system of the Ministry of Internal Affairs, the primary duty of which is to protect citizens' rights and interests from any kind of unlawful enforcement actions.[52]

The legislation on the police should be considered in light of the real problems detected not only at the legislative level, but also in terms of implementation of the existing legislative framework. Particular attention should be paid to human rights violations (e.g., excessive use of force, covert surveillance, audio interception) discovered within the police system and the need to strengthen democratic accountability of the police.[53]

It is interesting to what extent the Police Law may reinforce democratic control mechanisms. In this respect, the law is a step forward. It provides detailed provisions for exercising effective control over police activities. In addition, according to Article 56 of this law, police actions may be appealed by citizens to a superior official, the Prosecutor's Office,

[51] Police Law of Georgia, October 4, 2013 ¹1444-I?.

[52] Up to the present time, the Georgian Police have been a militarized structure. In consequence of the reform, today Internal Troops are under command of the Ministry of Defence and Border Police of Georgia, while the State Border Defence Department is subordinated to the Ministry of Interior. The Ministry of Security and Internal Affairs were merged into one agency. Thus the police have been demilitarized and formed a civic structure.

[53] See Lili Di Puppo, ‚Police Reform in Georgia: Cracks in an anti-corruption success story', U4Practice Insight 2010:2, 1-5. See also, Kornely Kakachia & Liam O'Shea, ‚Why does police reform appear to have been more successful in Georgia than in Kyrgyzstan or Russia?', *The Journal of Power Institutions in Post-Soviet Societies* 13/2012, http://pipss.revues.org/3964.

or to the courts. Internal control of a police officer's activities shall be exercised by the General Inspectorate of the Ministry. (Article 57, Paragraph 1). Article 58 of this law says that state control of the activities of a police officer shall be exercised on the basis of parliamentary, presidential, governmental, financial, and prosecutorial supervision. Basically, this law envisages various control forms.

In the European Union's special expert's report on the human rights situation in Georgia, the report indicates that appeals against the police (and the prosecutor's office) should be considered by professional, independent and trustworthy mechanisms. It should be independent of the above structures and act as an impartial representative of society.[54]

In the process of drafting the law, considerable comments expressed by society had been taken into account.[55] It is significant that, for example,. Article 10 of this law, which strengthens the principle of lawfulness, determines that, "Under the principle of legal reservation, police measures that limit human rights and freedoms recognised by the Constitution of Georgia may only be carried out under law". This is an extremely important provision against the background of infringements existing in Georgian police practice. The present review could not give a comprehensive answer to the question about the consistency level of execution of this provision. However, during the past few years, non-governmental organisations and independent experts have repeatedly brought into question nonconformity of measures adopted within the system of the Ministry of Internal Affairs with human rights and freedoms. Despite adopted variety of norms on the control of police activities, throughout the recent years the implementation of effective control over this structure has failed.

The uniform system for qualified staffing of the police needs to be improved.[56] It should be said as well that there is an actual necessity of developing clear criteria for determining police staffing and establishing more consistent mechanisms for fighting corruption. Besides, it is also remarkable that subject-matter experts and NGO sector representatives have criticised the mechanisms for dismissing a police officer. A police officer can be dismissed on the basis of staffing and institutional proce-

[54] Georgia in Transition – Report on the human rights dimension: background, steps taken and remaining challenges, 2013, 6 September, p. 8.

[55] See GYLA Conclusion: „Considering GYLA's Recommendations in the Draft law on Police ,http://gyla.ge/geo/news?info=1775.

[56] See M Corso, ‚Georgia: New Government Struggling to Keep Police Reform Pledge', Eurasianet, 2.7.2013, http://www.eurasianet.org/node/67468.

dures. Strengthening preventive functions of police subjected to criticism as it overly broadens the spectrum of police activities.[57]

The problem of establishing more effective cooperation and closer relationships between the police and the local community still remains. However, this issue cannot be resolved only at the legislative level; it requires making appropriate changes in the system of police education and qualification development, as well as the active involvement of civil society.

One of the goals of the legislative amendments made by the Georgian Parliament in 2013 is to reduce the possibility of political pressure on the police. Article 14 of the new Police Law adopted on October 4, 2013, strengthens the principle of political non-partisanship of police. According to this article, when exercising his/her powers, a police officer shall uphold the principle of non-partisanship. A police officer may not use his/her official status in favour of the party interests of any political subject. To strengthen this principle through legal rule is quite encouraging, but the most important thing is to put this principle into force.

In conclusion, we can say that the present law empowers more flexible police control mechanisms. Obviously, effectiveness of the law will depend on the actual implementation of its provisions in practice.

Law of Georgia on Operative-Searching Activities

In 2013, significant amendments were made in the present law of April 27, 2010. The bodies engaged in the operational-investigative activity shall be forbidden to secretly participate in the work of the state agencies, as well as in the activity of the political parties, the public and the religious associations, unless some exceptional circumstances are stipulated by law. In such cases approval of the Georgia's chief prosecutor is required.

The EU special advisor on human rights in his report points out that illegal surveillance had been a common practice in Georgia[58] and also emphasizes that Georgia's democratic and legal control need to be developed and further strengthened.

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[57] J.Rekhviashvili, „Police are changing" Radio Liberty 25.9.2013, http://www.radiotavisupleba.ge/content/politsiis-shesakheb-akhali-kanoni/25117530.html

[58] Georgia in Transition – Report on the human rights dimension: background, steps taken and remaining challenges, ??. 21.

Structural Reforms in the Police System and its Depoliticization

According to the 2013 development strategy of the Ministry of Internal Affairs (MIA), the most important task for the new authorities of the Ministry is the depoliticization of the MIA. Since November 2012, the Ministry cancelled the Department of Constitutional Security and the Special Operative Department and instead of them created anti-corruption and state security agencies.

According to this document, the establishment of society-oriented policing is the major priority of the reform, as well as the assurance of accountability and transparency, along with the provision of civil society involvement. The document covers a number of other important issues including, for example, the involvement of ethnic minorities, gender equality within the Ministry, and human rights protection.[59]

[59] ' 2013 Strategies for development of the Ministry of internal Affairs' available at the Ministry website: www.police.ge.

VI. Intelligence, Counterintelligence and Democratic Accountability

Law of Georgia on Counterintelligence Activity

The law on Counterintelligence activities adopted on November 11, 2005, defines the legal basis for counterintelligence activities and reflects a new approach on the matter. In terms of Article 1 of this law, counterintelligence activities represent the special type of activities in the state security sphere, aimed at detecting and preventing dangers resulting from the intelligence and/or terrorist activities carried out by foreign special services, organisations, group of persons or separate individuals and are directed against Georgian state interests. Counterintelligence activities are carried out by the Special Service. According to 2013 legislative amendments, the Counterintelligence Department of the Ministry of Internal Affairs coordinates activities of the Special Service. The head of this department shall annually submit a report to the president and the prime minister. Thus, the counterintelligence activity is not subject to direct parliamentary control. The law stipulates that a member of Parliament can receive protected information on intelligence activities only as prescribed by law.

Counterintelligence special activities are performed without a judicial order. However, electronic surveillance and postal correspondence control shall require such order. At the same time, Article 14 allows for the implementation of electronic surveillance without a court order, if the head of the Special Service determines that there is a need for immediate provision of such tracking. The head must notify a judge within 24 hours. While true that judicial control is very important, some independent organisations argue such control is not carried out effectively. The courts issue authorisation to conduct special operations quite easily [60], and it is obvious that this would not meet the standards of a democratic society.

[60] Nona Mchedlishvili, ‚After Years of Secret Tapes, Georgia Mulls How To Destroy Them', Radio Free Europe/Radio Liberty, 23.7.2013, http://www.rferl.org/content/georgia-secret-tapes-destroy/25019275.html.

It would be more appropriate to strengthen the accountability to Parliament. In some countries there is relevant legislation for exercising parliamentary control over the performance of intelligence service activities. Such legislation would increase the probability for more effective parliamentary control. For example, in Germany, a special parliamentary commission exercises control over restrictions imposed by the relevant services.[61]

It ought to be noted that budgetary control is implemented by a special group of the Chamber of Control that has access to classified information (Article 28). Judicial control instituted in Article 25 is very important. It shall be enforced in case of operational activities related to restrictions of the constitutional rights and freedoms of natural persons and legal entities. The law does not envisage allocation of any duly-authorised judge for the above-mentioned case.

Although the law provides for control mechanisms for the implementation of counterintelligence activities, past practice shows that special attention should be paid to their effective implementation. Abuse of rights by relevant authorities must be avoided. Prevention of violations of law is the most challenging subject as it is related to the (secret) nature of special operations. Therefore it is necessary to elevate a culture of legal awareness within special service employees and to improve the level of their education in the field of constitutional rights and international human rights standards. Such measures, of course, will be effective only under conditions of further enhancement of monitoring and accountability.[62]

The known October – November 2013 events related to global surveillance conducted by the US National Security Agency (NSA) once again revealed the need for regulatory compliance of such activities with legal and international standards.[63] At the end of October 2013, Germany and Brazil submitted to the UN Security Council the resolution that called for states to strengthen the democratic and independent control over the

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[61] See additional information at the following web-site" http://www.bundestag.de/bundestag/gremien/g10/.

[62] See e.g. Nona Mchedlishvili, ‚After Years of Secret Tapes, Georgia Mulls How to destroy them', Radio Free Europe/Radio Liberty, 23.7.2013, http://www.rferl.org/content/georgia-secret-tapes-destroy/25019275.html.

[63] see the US President Obama's Advisory Committee's Recommendations on the system reform ‚Presidential Advisory Committee's Recommendations for N.S.A.', http://www.nytimes.com/interactive/2013/12/19/us/politics/19nsa-review.html?_r=0.

state surveillance of correspondence and other means of communication.[64]

It is remarkable that the constitutional responsibility may be imposed on those states that contribute to a foreign country in conducting mass surveillance against their own citizens. In addition, under the European Convention on Human Rights (and the International Law on Human Rights), with Georgia as a Member State, it has an obligation not to cooperate with the services of a foreign country or not to participate in human rights violation activities committed by these services.

Law of Georgia on Intelligence Activity

Intelligence activities shall be carried out by the intelligence agency in order to protect the national interests of Georgia (Article 1). Such activity in the present law of April 27, 2010, is defined as "getting, processing, analysing, and implementing information on external threats against Georgia's national interests, as well as rendering assistance in pursuing the strategic course of national security and defence" (Article 2, Paragraph 1).

Article 4 of the law defines the legal basis for intelligence activities. Intelligence activities should be carried out within the framework of the constitution and the law, as well as in accordance with international obligations. Article 6, Paragraph 1 states that one of the principles of intelligence activities' implementation shall be the legality and observance and respect of human rights and freedoms. Political neutrality and accountability of intelligence activities are deemed to be similarly important.

Chapter II of the law gives the definition of the intelligence system of Georgia uniting the intelligence agencies (Article 7, Paragraph 1). The system consists of Georgian Intelligence Service, authorised subdivisions of Georgian Ministry of Defence, and Intelligence subdivisions of authorised bodies of Georgian Ministry of Internal Affairs (Article 7 Paragraph 2).

Such cooperation should be carried out within the framework of the law and the international obligations of Georgia. International practice demonstrates that in the context of collaboration of different countries'

[64] 'Brazil and Germany draft anti-spy resolution at UN', BBC. 2.11.2013, http://www.bbc.co.uk/news/world-europe-24781417. UN GA Resolution and the Right to Privacy, http://justsecurity.org/2013/12/02/philip-alston-un-general-assembly-resolution-right-privacy/;R. Goodman, ‚A Blow Against Big Brother', NY Times, 17.12.2013, http://www.nytimes.com/2013/12/18/opinion/a-right-to-digital-privacy.html?_r=0.

intelligence services, internationally recognised Human Rights standards are frequently violated and revealing such violations is a serious challenge. This is due to the specific character of intelligence activity. Such activities and related information are typically classified. Therefore, it is extremely important to put effective control mechanisms into action, which shall ensure detecting violations, including prevention and accountability of relevant individuals and services. In this regard, Parliament bears a significant role, to which the Government and its agencies are accountable.

In accordance with Paragraph 4 of Article 9 of the law, "The president of Georgia shall take the decision of expediency of interdepartmental negotiations and cooperation between the system of foreign intelligence of Georgia and intelligence and counterintelligence services of foreign states". The law does not clearly define the role of the legislative body in the process of evaluating cooperation between intelligence agencies. However, such cooperation should not remain beyond parliamentary control. Parliament and its relevant committees must show regular interest to international collaboration of intelligence agencies. Evidently, this kind of control must be carried out with full protection of secret information without seriously damaging the national interests of Georgia and other states. Nevertheless, the control must be as effective as possible and to provide a high level of democratic accountability of intelligence agencies. In some countries special parliamentary committees exercise control over the intelligence services. For example, in the Norwegian Parliament, the special parliamentary committee conducts permanent control and monitoring of intelligence activities (Committee for the Monitoring of Intelligence, Surveillance and Security Services). [65] Making improvements in such control needs to be provided in accordance with international standards and practices.[66]

Under the Article 15 of the present law, the president of Georgia officially supervises the functioning of the Georgian intelligence system, and the control of intelligence agencies is implemented by the Defence and Security Committee of the Parliament of Georgia (Article 16).

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[65] See. Instructions for Monitoring of Intelligence, Surveillance and Security Services (EOS), issued to a Section 1 of Act No. 7 of 3 February 1995 relating to the Monitoring of Intelligence, Surveillance and Security Services.

[66] See. Hans Born / Ian Leigh, Making Intelligence Accountable: Legal Standards and Best Practice, Oslo 2005, www.dcaf.ch.

Law of Georgia on the Intelligence Service

As a result of legislative reforms undertaken in 2013, the Intelligence Service passed under governmental control.[67] Presidential powers were significantly weakened. The intelligence service of Georgia now represents the executive authority of the special-purpose agency under the direct supervision of Prime Minister (Article 2 of the law adopted on 27 April 2010). [68] The service is accountable to the Prime Minister for its activities (Article 6, Paragraph 1). The prerogative of appointing and dismissing relevant officials, is delegated to Prime Minister. He appoints the service head, which is the Prime Minister's key advisor on intelligence matters (Article 9, Paragraphs 1, 2). The Prime Minister of Georgia carries out the official supervision of the intelligence service (Article 26).[69] Parliamentary control is implemented through the Defence and Security Committee. Under Article 27, Paragraph 2 of the present law, "control over expenditures allocated from state budget for the purposes of intelligence service secret activities and special programs, is exercised in accordance with the law of Georgia on the Trust Group". Article 28 of the law provides for prosecutorial supervision over the legality of intelligence service activities. However, the data on those individuals who are or were cooperating with intelligence service are not subject to the supervision of the prosecution, neither the methods nor tactics of obtaining intelligence data, and its classification (Article 28, Paragraph 2). The law does not stipulate which body performs supervision over the legality of such activities. However, the Trust Group, as a rule, is capable of exercising control over security activities of the service. The law does not expressly provide for judicial control mechanisms. System definition of the law in this regard should be made against the background of other legislative acts that define the judicial control mechanisms and their functions in order to ensure the rule of law. The Georgian Chamber of Control carries out financial control of intelligence activities. (Within its competence, the Budget and Finance Committee of Parliament of Georgia may also exercise such control.)

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[67] "Powers related to the national security information are delegated to the government" Tabula 23.2.2013,http://www.tabula.ge/ge/story/64340-saxelmtsifo-saidumlo-informaciastan-dakavshirebuli-uflebamosilebebi-mtavrobis.

[68] See the "Law on Georgian Intelligence Service" for additional information on amendments to this law in 2013, 20 September 1239-I?.

[69] See previous note

The subordination of the intelligence service collegial body to the government should be evaluated positively. This should not cause a lessening of the intelligence service operational activities and management quality, as well as the level of democratic control over the service.

Law of Georgia on the Trust Group

Pursuant to the law adopted on March 4, 1998, the Trust Group was created from the members of the Georgian Parliament Defence and Security Committee conducting budgetary control over special programs and security activities of the executive (Article 1). The Trust Group, which consists of five members, has access to the materials on relevant security activities. The group can request materials in order to examine the situation. The relevant executive bodies responsible for specific programs or security activities, no less than once a year shall submit a report on executed activities to the Trust Group (Article 6, Paragraph1).

With the aim of strengthening budgetary control over Defence Ministry activities, the law was amended in 2013, under which the state security procurements became subject to Trust Group control (Article 6, Paragraph 3).[70] Further experience will show the extent of effective use of these competencies.

It is evident that serious functions are assigned to the Trust Group. Though the legislation does not regulate the relationship between the Trust Group and the rest of the Georgian members of Parliament. It is also unclear whether the Trust Group is charged to notify the Parliament and the public in particular instances of revealing serious law violations and in case of unreasonable political and financial decisions. In addition, the effective functioning of the Trust Group should not depend on the political discord existing in the individual political groups.[71]

[70] See the Georgian Law, "On Trust Group", for further information on amendments made in this law 12 June 2013, N 722-II?.

[71] For Trust group resourcing issues see: http://for.ge/view.php?for_id=28452&cat=2; http://www.for.ge/view.php?for_id=28464&cat=2.

VII. The Border Police of Georgia

Law of Georgia on the Border Police of Georgia

Border police reforms have been implemented since 2006. Today's Border Police greatly differ from the militarized border structures of some post-Soviet countries. The Border Police of Georgia is a law-enforcement body. Border Police were transformed into a law-enforcement agency in 2006. The detailed legislative base has been developed, but the issues of practical and cost-effective implementation of the legal framework still remain.

Legislative amendments made in September 2013, empowered the Georgian government and prime minister to strengthen control over the Border Police. The Border Police is directly responsible to the Minister of Internal Affairs. The chief of the Border Police, which carries out the overall guidance of the Border Police, shall be appointed by the prime minister of Georgia upon submission of the Minister of Internal Affairs, and shall be dismissed by the prime minister at his/her own initiative, or upon submission of the Minister of Internal Affairs (Article 9, Paragraph 1).[72]

The present law defines the structure and functions of the Border Police. Importantly, the Border Police may cooperate with the border agencies of other countries and conclude interagency international agreements within the sphere agreed jointly with the Minister of Internal Affairs and through the consent of the Ministry of Foreign Affairs (Article 6, Paragraph 2). This law also determines Border Police objectives and measures. Where required, the Border Police may obtain information about a person through surveillance, or through the use of technical means (Articles 39 and 40).

Procedural guidance of the Border Police investigative activities and supervision over its operative and investigative activities shall be implemented by the Main Prosecutor's Office of Georgia (Article 43).[73]

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[72] On amendments made in The Law of Georgia on "The Border Police", November 1, 2013.

[73] On amendments made in The Law of Georgia on "The Border Police", September 20, 2008.

There are a number of difficulties related to the state border management matters, and these difficulties refer not only to effective implementation of the legal framework. For example, in an analysis published in 2007, it is indicated that, "High levels of human rights violations can be observed while crossing borders. Typically, this is related to corrupt border guards, customs officers and other structures' officials. They extort irregular payments from citizens who, in turn, are poorly informed about the border crossing procedures, their rights and obligations".[74] It is also pointed out that the situation could be improved through better public awareness and appropriate staff training.[75] In addition, the experts point to the need for coordinated efforts of various agencies in order to increase the efficiency of border management.

Finally, Georgia currently does not control significant segments[76] of its own borders. Consequently, in those segments the Border Police cannot carry out the functions assigned by law. Therefore, it is a serious problem in terms of providing effective governance of the security sector.

[74] EU Neighbourhood *Policy and Georgia Analyses* of independent experts (2007).
[75] See the same analysis.
[76] 'Грузия: Продолжается борьба с Россией и сепаратистами по поводу стротельства почъграничных заграждений', Eurasianet 19.9.2013, http://russian.eurasianet.org/node/60301.

VIII. Conclusion

The improvement of the legal base in recent years played an important role with relation to security sector consolidation. As a result of constitutional changes in 2013, in some of the structures the president's role has been reduced in overall control and emergency management. However, we cannot say that the parliamentary control became stronger. The powers of the prime minister and the government have been increased.

Generally, parliamentary control over the defence and security sector is quite weak[77]. The executives of Georgia make all important decisions and the Parliament does not often have an effective preliminary control mechanisms.

Nowadays, the intense and important discussions are held at the international level regarding how to ensure democratic legitimacy of the integrated defence and military structures within the scope of the EU and NATO. In terms of strengthening parliamentary control, it might be beneficial for Georgia to conduct such debates on the issue of armed forces' participation in military operations abroad.

On the assumption of Georgia's greater involvement in international structures and more active participation in peacekeeping operations, the likelihood of a relaxation of parliamentary control will be increased. Thus, the legislator should pay particular attention to the growing international integration of military cooperation of Georgia. In addition, integrated parliamentary control over the armed forces and the defence system needs to be strengthened.[78]

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[77] See, for example, "Georgia is seeking NATO Quick Reaction Force", Radio liberty 21.7.2013, www.tavisupleba.org

[78] The Defence Minister's initiative in regard to strengthening democratic control over budgeting and spending, is noteworthy. "Alasania advances initiative on strengthening parliamentary control over Defence ageny." Available at http://news.ge/ge/news/story/49482-alasania-tavdatsvis-utsyebaze-meti-saparlamento-kontrolis-initsiativit-gamodis. See also the defence Minister's Interview of October 31, 2012, where he speaks about the importance of civil and parliamentary control. Irakli Alasania: "Georgia has a small army in addition to this..." Tabula 31.10.2012, Available at http://www.tabula.ge/ge/story/62445-irakli-alasania-saqartvelos-isedac-mcire-armia-hkavs.

The defence reforms are under way in order to achieve interoperability with NATO. In "The Minister's Vision", which is the guiding document for the Ministry of Defence for 2013 and 2014, the Minister of Defence sets transparency and civil control enhancement among the major priorities of the Ministry. In order to increase accountability, the document emphasises the need for cooperation with the Parliament; it also highlights the question of preparing the Minister's annual report on some ongoing changes and the future plans in the defence sector and submitting it to the Parliament.[79] The document also focuses on the "White Book" elaboration, aiming at increasing citizens' awareness about ongoing developments in the defence sphere. Apart from the ministerial reports, the document does not specify other mechanisms for cooperation with Parliament. Therefore, it is essential for Parliament to effectively use its levers for exercising active control. For example, the Defence and Security Committee should play an important role. Parliament should not be limited only in reacting to changes ongoing in the defence sector, but also be able to influence these changes before they are actually implemented.

Referring to the Ministry of Internal Affairs and the police, respective legal base have already been developed there. However, the problem of effective implementation of the principles prescribed by this legislation, remains. It is essential to continue adopting legislative and administrative measures for depoliticization of the Ministry of Internal Affairs. Overlapping police and security service functions must be avoided. Also, clear separation of competencies is equally important. This applies not only to security and police functions, but also to the police and armed forces as well. The latter should participate only in exceptional, statutory operations inside the country.

In recent years, the intelligence and counterintelligence service legislative framework was revised and structural reforms were implemented. This field shall be beyond the president's personal leadership and subject to the government and the prime minister's control. Additional measures should be taken for strengthening democratic control over these institutions.

By means of significant reforms the Border Police and related legislative base are developed. However, as experts point out, there still exist problems concerning corruption and human rights protection. In this regard, additional educational measures need to be taken.

[79] 2013-2014 "Prime Minister's Vision", The Ministry of Defence" Tbilisi (2013): 4.

Effective protection of human rights is the most important foundation for democratic governance of the security sector. This goal can be achieved only in terms of guidance based on full participation. Consequently, it is necessary to enhance engagement of the society and institutions of democratic legitimacy in the process of security sector governance.

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