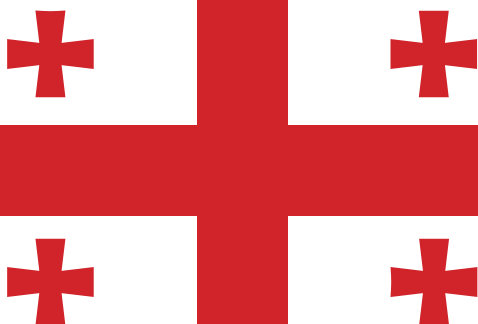




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ATLANTIC COUNCIL OF GEORGIA



Georgia's Security Sector Review Project

Final Report

2014

Project supported by USAID

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1. EXECUTIVE SUMMARY

The construction of a well-functioning and durable national security architecture, which corresponds to modern democratic standards, requires a clearly defined regulatory framework, a strict division of the competencies between the institutions, as well as an effective system of checks and balances.

The new Constitutional model of governance has changed the security architecture: it has increased the competencies of the Cabinet and decreased the presidential powers over the Security Sector. This change requires adequate, effective and systemic legislative changes that will guarantee efficient mechanisms of coordination, collaboration and interaction among Security Sector institutions.

This report provides a comprehensive review of the institutional, functional and legal aspects of the Georgian security sector, the mechanisms for parliamentary and civic oversight and engagement of the non-governmental sector in the security sector reform. It is mainly focused on the state agencies working within the national security sector, namely: the Ministry of Defense, the Ministry of Internal Affairs, and intelligence agencies. The report also analyzes the inter-agency mechanisms for security policy planning and coordination.

The leading institutions of the security sector, their competencies and the legislative framework for oversight. Analysis of the existing legislative framework for the security sector clearly demonstrates the

need for further refining of the mechanisms for effective civilian and democratic overseeing of the agencies equipped with police, military and security functions in general. The ongoing process of necessary division of competences and streamlining of the legislative framework has not been completed following the application of the new Constitutional model of Georgia. Ensuring the consistency of relevant legislative changes with current Constitutional provisions, and securing civic engagement in this process are imperative for the further democratic and institutional development of the country, its stability, and effective implementation of the national security policy.

Development of the viable budget oversight system over the classified activities of the state agencies, in the framework of the generally effective mechanisms for parliamentary control, is one of the chief tasks of Parliament. Engagement of Parliament's "Group of Confidence" in the process of designing of and budgeting for special programs, as well as oversight of spending within already appropriated state programs, will increase the transparency and efficiency of the security sector.

Ministry of Internal Affairs: The MIA of Georgia has policing, counter-intelligence, some intelligence, investigative, border control, anti-terrorist and emergency assistance functions. It is the largest and most powerful agency within the security system with virtually unlimited authorities. Despite some reforms, the MIA to this day lacks a clearly defined framework for institutional and functional division of its omnipotent authorities. The reform of the patrol police was very successful and efficient, and as a result increased the public trust towards the police. However, the MIA's other fields of activities require substantial further reforms. The Ministry's existing mechanisms for strategy and policy planning, civic engagement and ensuring of transparency are very weak and rarely applied in practice.

Clear separation of the policing and state security ensuring functions, in particular removing the counter-intelligence activities from the MIA competencies and securing the proper democratic oversight over them, is the foremost challenge facing not only the MIA, but the security sector at large. With the existing feeble and inefficient mechanisms of civic and democratic control over the MIA, the risks of power abuse by the Ministry will continue to be very high. As recent Georgian history demonstrates, these risks often materialize. Without the relevant separation of the MIA functions, and without securing civic and democratic oversight over their implementation, the reform of the security sector in Georgia will be neither complete, nor successful.

Ministry of Defense. Some state agencies which are part of the security sector (the Ministry of Internal Affairs, Intelligence Services, the Ministry of Justice and the Ministry of Corrections) had the pre-existing Soviet era analogues working on the same or similar issues. Institutional governance knowledge, as well as more or less competent human resources, left behind them helped to lay the foundation for the new agencies, created following Georgia's independence in 1991. The construction of the national defense sector, on the other hand, had to start from ground zero. The human resources, needed to develop the armed forces were in very short supply. The coup-d'état of 1991 and the armed conflicts engineered by the Russian Federation in the regions of Abkhazia and South Ossetia, the economic collapse of the 1990s and the rampant corruption in the state structures, have all complicated the process of construction of a functional defense sector and armed forces. As a result, the decade following the independence of Georgia failed to deliver significant progress on this front.

The international assistance provided to Georgia in the 1990s, and later, has greatly contributed to the development of the Georgian defense

sector. Access to participation in various educational and training courses conducted within the frames of the NATO “Partnership for Peace” Program, and funded mainly by the NATO countries, proved to be very effective form of assistance. The US assistance provided in the frame of the International Military Education and Training (IMET) Program, in which Georgia was included in 1994, deserves to be highlighted in this respect as well. Within the framework of this program, over the course of several years, the US government has been funding the education and training of military and civilian personnel working for the Georgian defense sector. This has significantly contributed to the development of the necessary pool of human resources. In 2002, the United States also started the funding and implementation of the military capacity development assistance program “Train and Equip,” which laid down the foundation for construction of the modern Georgian army and defense institutions. The assistance provided over the course of many years by NATO and a number of other European partner countries have made possible a speedy implementation of the institutional reforms in the defense sector, and a dynamic modernization of the Georgian army.

The energetic efforts by defense sector professionals trained with the help of international assistance programs, as well as the competently directed, decade long processes of defense reforms and transformation, have delivered a rapid progression. As a result, today, the Georgian defense system partially satisfies the modern requirements and the Georgian armed forces are largely NATO inter-operable.

Despite this significant breakthrough, the defense sector continues to face many challenges. Insufficient institutionalization of the defense policy planning and management practices remains one of the most significant problems. The limited efficiency of the military education and training system is also a serious challenge which should be addressed

by a better synchronization and optimization of the system.

The new leadership of the Ministry of Defense should be given credit for increasing transparency of the activities of the agency, as well as securing greater engagement of civil society in the process of development of the key policy documents in the defense sector. To become sustainable in the longer term, these positive practices should be institutionalized through appropriate regulations.

The culture of a single-handed administration of government agencies by their Heads, which is widely practiced in Georgia, has left its footprint also on the Ministry of Defense. The results of decades long experience of the single-handed, top-down management style in the MoD clearly shows that it reduces the efficiency of the agency's work. It prevents the policy continuity and its consistent implementation, as well as necessary decentralization and sound management of human resources. While the current leadership has demonstrated its political will in this respect, due to insufficient progress in the institutionalization of defense planning and management processes, decentralization of administrative power is progressing at a rather slow pace.

In the future, the efficiency of the Georgian defense sector, to a large degree, will be determined by the willingness and capacity of the leadership to systematically address these problems.

Intelligence Sector. The report provides a comprehensive review of the legislative and institutional aspects of the intelligence sector. According to the legislative framework, the intelligence and counter-intelligence services are institutionally separated. The State Intelligence Service is accountable to the Prime Minister, while the counter-intelligence services are provided and administered by the Ministry of Internal Affairs.

The main document, which defines the framework of the intelligence activities, is the Intelligence Concept Paper. The legislation does not

define specifically which agency is in charge of developing this concept paper. Consequently, it is developed based on existing practices. Prior to the entry into force of the recent constitutional changes, the National Security Council was the agency which was responsible for drafting the document. As the new constitutional changes become effective, it is unclear which agency will be given this important task. The process of drafting this document should also be regulated to a full extent by the relevant legislation.

According to the law, the Chief Prosecutor and the prosecutor he/she designates for this task, oversee confinement of intelligence activities to the limits set by the legislative framework. However, a number of legislative loopholes leave some intelligence activities at the operational level outside of the oversight authority of the judiciary or prosecutor's office. This continues to be a pressing challenge which needs to be addressed accordingly.

Parliamentary Oversight. In general, the legislative framework for parliamentary oversight in Georgia largely corresponds to internationally recognized standards. Parliament is empowered to deliberate and adopt laws, discuss and endorse government policies, as well as decide on budgetary assignments. It can initiate laws, as well as impeachment procedure, cast confidence or no-confidence votes against government, and ratify international treaties regarding the participation of the Georgian armed forces in international peace missions outside the state borders of Georgia. At the same time, the role of Parliament in the appointment or dismissal of high level state officials dealing with the security sector is rather limited. The parliamentary authority to receive detailed information regarding the concrete expenditures planned in the security sector or to present amendments to the budget assigned to the agencies in this sector is also limited. Parliament is not able to fully exercise its oversight func-

tions vis-à-vis the Ministry of Internal Affairs and the State Intelligence Service. Due to the “Group of Confidence’s” limited independence in making full use of its existing authority, the classified programs of the defense and other security sector agencies are subject to only limited parliamentary oversight.

Aiming at increasing democratic control over the security sector, the Parliament of Georgia could strengthen its efforts in holding all relevant security sector agencies accountable for their work by better use of its oversight authority at the level of parliamentary committees and at plenary sessions. Current legislation provides relevant competencies to parliament within which it can take appropriate action, in particular: facilitate the embedding of the planning, programming and budgeting system in the process of state budget development; increase the efficiency of exercise of oversight functions by the State Audit Chamber and the relevant parliamentary oversight authority; expand the authority of the “Confidence Group” to initiate the relevant inquiries; strengthen on the one hand the cooperation between Parliament and local NGOs, research and educational institutions, and on the other with international organizations, forums and the European and Euro-Atlantic inter-parliamentary cooperation initiatives.

Civil Sector Engagement – Mechanisms and Practice. The report presents an analysis of the activities of Georgian NGOs working in the security sector with the objective of facilitation of civil society engagement in the security sector reform process and strengthening the mechanisms for civic oversight vis-à-vis the sector. It presents a review of the existing practices and the mechanisms for cooperation between state agencies and non-governmental organizations, focusing on the Ministry of Defense, National Security Council, Parliamentary Committee on Defense and Security, Ministry of European and Euro-Atlantic Integration, Ministry

of Internal Affairs, and other agencies. The report examines five main directions of the activities of the NGOs: public awareness raising, analytical work, provision of training, monitoring, and advocacy.

The analysis shows that while, in terms of civic engagement, the Ministry of Defense engages closely with NGOs working in the relevant fields, cooperation between the representatives of the civil sector and the Ministries of Internal Affairs and Foreign Affairs is rather limited.

2. REVIEW OF GEORGIA'S NATIONAL SECURITY ARCHITECTURE — STRATEGIC LEVEL

2.1. Introduction

As the Constitutional amendments have entered into force with the inauguration of the new President, Georgia is undergoing an important change in its system of governance. The Presidential constitutional model is changing to the new system based on the constitutional principles of parliamentary governance. According to the new constitutional framework, a popularly elected President enjoys considerably less executive powers than the Prime Minister and the Cabinet confirmed by the Parliament. The President retains the role of Head of State and Commander-in-Chief of the armed forces, but the presidential competencies are substantially reduced in many areas, including in the field of national security. A new President of Georgia will no longer be in charge of conducting the country's foreign and security policy.

While the new Constitutional framework affects the entire national security architecture, due to the busy political agenda the needed changes in the legal and policy framework have not been at the center-stage of the policy debate so far. It is evident that the new constitutional model mandates a thorough and fundamental review of the institutional framework

for the development of strategic documents, policy planning instruments and interagency coordination mechanisms of national security. Supporting a serious policy-debate on these fundamentally important issues to facilitate the development of well thought-through legislative and institutional changes is the main goal of the USAID funded Security Sector Review Project being carried out by the Atlantic Council of Georgia.

Georgia continues to face serious security threats, risks, and challenges, both hard and soft security related, requiring complex policy responses. To deal with them, it is vitally important to have an effective and efficient security policy-making and implementation system which is fully in line with the principles of democratic governance, democratic oversight, and accountability.

The first report produced in the framework of the Security Sector Review Project is the assessment of the overall legal and institutional policy framework of the Georgian security sector. It provides a review of the existing legal framework of the national security architecture, including the changes introduced by the recent Constitutional amendments and a number of other legislative amendments initiated lately with the aim to bridge the gaps between the new Constitutional provisions and existing legislation with regard to distribution of competencies between the President and the Government.

The report also reviews existing institutional settings and mechanisms for interagency coordination, development of strategic documents, the interagency policy planning and policy-making process, as well as the implementation of oversight and crisis management instruments. It provides a review of the role of the National Security Council and its staff and assesses the system of checks and balances, as well as civic engagement mechanisms. An annex to the document also provides an overview of the existing practices from selected democratic countries.

Based on a review of the existing system, recently initiated amendments and the lessons learned from the best practices of other countries, this report offers a set of recommendations.

The recommendations offer a suggested roadmap for legislative and institutional changes aimed at strengthening the effectiveness and sustainability of the overall mechanisms of governance in the security sector, streamlining the security policy-planning process, while at the same time increasing democratic oversight and accountability in this vitally important field of public policy.

2.2. Legal Framework and Redistribution of Competencies in the Field of National Security in light of the Constitutional Changes

Today, Georgia finds itself in a new political reality. The new amendments to the Constitution of Georgia were recently enacted. These constitutional changes have significantly altered the status-quo with regards to the separation of powers, as well as to the legal framework for the national security architecture.

The Constitution of Georgia adopted in 1995 resembled the model of the constitutional system of the United States. It envisaged a strong presidential institution and the National Security Council, a body prescribed by the Constitution, with significant executive powers vested in it. Article 99 of the Constitution of 1995 defined the functions of the NSC as taking charge of the process of creation and development of the Georgian Armed Forces, as well as organization of the country's defense

system. According to the Constitution, President and Parliament would define further functions, as well as the composition of the NSC in the relevant organic laws. The organic law on the functions of the NSC, adopted in 1996, defined the NSC as a consultative body to the President, with coordinating and supervisory functions on issues related to national security. The constitutional changes of 2004 did not significantly change the NSC functions, as the government, led by the Prime Minister, continued to play a minimal role in questions related to national security, with the President retaining wide competences in this field.

However, the most recent constitutional changes have significantly widened the competencies of the government and reduced the presidential powers in many fields, including in national security. This, in turn, has necessitated the introduction of legislative changes in respect to the framework of national security architecture and NSC competencies.

ACCORDING TO THE NEW CONSTITUTION:

The President. Even though President is no longer responsible for conducting the country's domestic and foreign policy, he/she retains important constitutional powers related to national security. The President remains the Head of State, is the Commander in Chief of the Armed Forces, and is also the guarantor of the country's territorial integrity and national independence. Together with the government, the President carries out important functions in foreign relations (the conduction of negotiations, appointment of ambassadors, and the initiation or ratification and denouncement of international treaties and agreements), defense and crisis management fields. Even though President no longer has the right

to initiate the legislation, he/she still has the power of promulgating the laws adopted by Parliament, or vetoing them.

The President is also empowered to initiate a discussion of specific issues at the meeting of the government and to participate in this discussion. Such a meeting of the government would also be attended by the Secretary of the National Security Council and its other members.

The President also retains the exclusive right to appoint the members of the NSC.

The Government. The government has a considerably increased authority. Together with becoming a sole branch of executive power responsible for carrying out the country's domestic and foreign policy, the government has acquired new rights and responsibilities related to national security.

The most significant change envisages the transfer of authority on conducting foreign and security policy from President to government.

The President is required to seek the government's approval on all important issues related to Foreign policy, as well as in the military sphere, such as in the:

- Conduction of international negotiations;
- Appointment of ambassadors;
- Initiation or ratification and denouncement of international treaties and agreements;
- Issuing decrees during a state of emergency;
- Appointment of chief military leadership.

On all these questions, the decision is taken as a result of a consensus between the President and the Government.

Parliament. While the new Constitution has not altered significantly the powers vested in Parliament, with the new distribution of powers between

the President and the Government, the role of Parliament has increased. In light of the new balance of power, parliamentary authority to define the main directions of the country's domestic and foreign policy has acquired increased significance. Parliament also continues to hold the power to:

- Ratify international agreements and treaties, as well as to denounce or revoke them;
- Approve for introduction of a State of Emergency or State of War;
- Cast a vote of confidence for a government program, as well as for the government;
- Declare no confidence to the government and start impeachment procedures;
- Approve the budget and cast a decision on budget execution.

But the main power of Parliament related to the security sector rests with its authority to legislate and define the new architecture of the national security system.

New Constitutional amendments have not changed the role and functions of the NSC, as defined by the Constitution. As for the NSC-related organic laws, the new legislative changes have not yet been adopted.

2.3. Recent Legislative Amendments

Since the last parliamentary elections of 2012, the Georgian Parliament has adopted a number of important legislative changes related to the national security sector. Draft amendments to the organic law on the National Security Council of Georgia have also been initiated. The proposed leg-

islative changes limit the presidential powers related to the military and defense sector, even though the President remains the Commander in Chief of the Armed Forces.

Adopted amendments to the Law on Defense Planning (articles 9.2 and 9.3) transfer important competencies related to the armed forces and defense from the President to the Government. The government will now be responsible for producing both the National Military Strategy and the Threat Assessment Document. While the Threat Assessment Document will be presented by the government to the President for approval, the National Military Strategy will be approved by the government, rather than by the President.

The Law on The Foreign Intelligence Service, is also being amended with the Foreign Intelligence Service becoming subordinated to the Prime Minister, rather than the President. It should be noted that this agency has certain competencies related to the armed forces.

According to the Freedom Charter, the NSC will retain its competence as a coordinator of the activities in the fight against terrorism. The Ministry of Internal Affairs is responsible to present its report to the NSC in this field.

In the latest amendments to the Law on Military Duty and Military Service, the powers on defining important issues of conscription and military service in the armed forces has been transferred from the President to the Cabinet. According to the constitution, the President remains the Supreme Commander-in-Chief of the Georgian Armed Forces and, therefore, these changes can be considered as a contradiction to the constitutional functions of the President.

An identical decision was made concerning the Law on Military Reserves: the President's competence to define the terms of conscription has been transferred to the Government.

The changes proposed to the Law on State of Emergency, as well as to the Law on the State of War are also diminishing the presidential powers. According to the new Constitutional amendments, the President keeps the exclusive right to introduce a state of emergency and is not obliged to obtain the countersignature of government for this. However, the latest amendments to the Law on State of Emergency are changing the situation and introduce such a requirement. According to the Constitution, only presidential decrees issued after the declaration of the State of Emergency require a countersignature, and the President is authorized to introduce a state of emergency on his own.

The latest amendments to the Law on State of War will cancel a provision according to which, in case of a declaration of a State of War, the President, as the Commander-in-Chief, takes over the functions related to national defense, public order and national security. It is unclear who will be taking over these functions during a State of War.

The amendment to the Law on State Secrecy gives the responsibility and authority to decide on matters of classified information to the government and Prime Minister. The role and participation of the President (as Supreme Commander-in-Chief) in the decision-making process is disappearing with these amendments.

According to the Law on Participation of Georgian Armed Forces in Peace-keeping Operations”, the decision on the participation in peacekeeping operations is made by the government, rather than by the President.

In case of adoption of draft amendments to the Organic Law on the National Security Council, important changes to the legal framework of the national security sector will be introduced. Proposed amendments change the competences of the NSC and limit them from national security to exclusively defense issues. In case of adoption of the proposed amendments, the NSC will no longer hold the responsibility for coordination

or development of the state security concept, or the strategic document of national security architecture. The NSC will be responsible only for drafting recommendations for the national security concept. It remains unclear which agency will be responsible for the coordination of the process of development of the document.

Another change introduced by the proposed amendments is that the NSC will no longer have the right to create interagency commissions as the effective tool for policy development and coordination.

The proposed legislative amendments also fail to define which agencies will be responsible for internal and external threat assessment and identification, coordination and planning of the necessary steps for preventing and neutralizing the identified threats. Nor is it clear who will be responsible for the coordination of crises management at the highest political level.

According to the proposed draft, the members of the NSC should be selected exclusively from among members of the Cabinet. Five ex-officio members are defined by the law, but the selection criteria of appointing the required three further members of the NSC may need more clarification. Proposed amendments introduce a quorum for decisions in the NSC – the majority of votes for the matters of military development and organization of the state defense system, and a 2/3 majority for the approval of the numbers of military personnel. The Constitution defines the NSC as a consultative body of the President, not a decision-making institution; therefore, the logic of introducing the quorum for the decisions of the NSC remains unclear.

2.4. The National Security Architecture – Institutional Settings of the National Security System

The National Security Architecture is a legislatively regulated set of institutions providing the framework for enabling and organization of national security policy making, implementation, review and oversight.

These institutions ensure the proper functioning of the national security system through managing and supporting the processes of definition of national security interests, identifying security threats, risks and challenges, current issues of national security and addressing them effectively through coordinated national effort carried out under proper democratic oversight.

The national security architecture of each country is supposed to be designed with the aim of ensuring the adequate distribution of security sector competencies, effective agency and national level policy-making and implementation, proper institutional checks and balances, viable interagency coordination, and democratic oversight.

In particular, the relevant institutional arrangements should provide framework and capacities for:

- Definition of national security interests and priorities, comprehensive analysis of the security environment and issues at hand, identification of national security interests at stake;
- Timely collection, analysis and sharing of valuable national security related information by the decision-makers on agency and national level, as well as provision of substantiated alternative policy options and strategies for implementation;
- Viable mechanisms of monitoring policy implementation, policy review and correction, inter-agency cooperation and coordination;

- Effective democratic and civic oversight.

The key agencies of the national security sector are: The Ministry of Defense, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Finance, and the National Security Council. Each of them has legislatively defined competencies within the security sector, as well as departments/structural units that are responsible for their part of security sector related analysis, policy planning, review and implementation.

The National Security Council has been in charge of coordinating the interagency work in the security sector since its re-establishment in 1996 (its short lived predecessor was established by the decree of President Zviad Gamsakhurdia on September 24, 1991, and ceased functioning after his exile in January of 1992).

According to the Georgian Constitution, adopted in 1995, the main task of the National Security Council is building of the armed forces and organization of national defense. The Organic Law on the National Security Council, adopted in 1996, specified its functions and granted the Council a broad range of authorities including: coordination and control of defense and security activities of relevant Georgian agencies; drafting of the national security concept and security sector related laws; and control over the implementation of national security related normative acts issued by the President.

The Council is an advisory institution to the President of Georgia that is chaired by the President of Georgia and has the following statutory members: Prime Minister, Minister of Foreign Affairs, Defense Minister, Minister of Internal Affairs, Minister of Finances, and Secretary of the National Security Council. The Parliament Speaker also attends NSC meetings on a regular basis.

The Council's powers have been further broadened by relevant

amendments to include the authorities for all-type crisis management at the highest political level, assessment and forecasting of internal and external security threats, and organization of the elaboration of different national concepts and strategies falling within the scope of the security sector. Today, the National Security Council remains the highest political decision-making body on security matters (including on national security and relevant foreign and domestic policy issues).

Before the entry into force on November 17, 2013 of the new Constitutional amendments, the President of Georgia was the Head of State as well as the Head of the Government, responsible for the elaboration and conduct of the National Security, foreign, and defense policies. The major functions of the NSC were defined as advising the President on the issues of Security Policy planning and formulation, ensuring the elaboration of the National Security Concept, discussing major security-related issues on domestic and foreign policy, coordinating processes of military and defense establishment development, organizing the process of elaboration of strategic level documents related to defense, security, law enforcement, anti- corruption and foreign policy, elaborating recommendations on the legal framework for the security sector, and providing crisis management at the top political level.

To support the work of the NSC, acting under the President's authority, functions and practices of the NSC staff included certain supportive and executive tasks related to the development and implementation of the national security policy, specifically:

- Development of conceptual and strategic documents (threat assessment, the National Security Concept, Strategic reviews, etc.);
- Supporting crisis management coordination;
- Supporting the institutional multi-layer interagency coordination mechanisms based on a whole-of-government approach for effec-

tive and credible policy-making and implementation;

- Monitoring the implementation of the political decisions;
- Elaboration of the policy directives, guidelines and recommendations and monitoring of their implementation;
- Ensuring transparency and supporting the inclusiveness of non-governmental actors in the process of defense and security policy planning.

Several interagency commissions have been created under the Council that provided frames for coordinating the security sector-related activities of different agencies. For proper organization of interagency cooperation and institutionalization of the whole-of-the government approach, the Presidential Decree provided for the establishment of the **Permanent Inter-Agency Commission**, under the auspices of the National Security Council of Georgia, to co-coordinate the composition of National Security Strategic Documents. The head of the NSC was appointed as its chair.

The Commission comprised the deputy ministers of the relevant agencies. It coordinated the development of the National Security Concept and the National Threat Assessment Document, as well as assisted the MoD in finalizing the draft of the National Military Strategy through presenting it for interagency discussion during its meetings. The National Threat Assessment, National Military Strategy, Intelligence Concept, Cyber Security Strategy and Action Plan, and Bio-Security Strategy were also revised through interagency cooperation within the NSC Commission.

If the recently proposed changes to the Organic Law on National Security Council enter into force, they will significantly curtail the Council's powers, including with regards to crisis management, interagency coordination, and strategic document elaboration.

2.5. The First National Security Review Process (NSR)

After the August 2008 war with Russia, the NSC identified gaps in the National Security Architecture. The main problems identified were weak interagency cooperation and reactive mode within crisis management. To bridge these gaps, the NSC started the National Security Review process aimed at further institutionalization of Security Policy Planning and at strengthening of the national security system. The goals of the NSR process were to assess the state of the country's security policy planning system, capability gaps and strength in each component of Georgia's Security System. It had to ensure the coordinated definition of the policies the country should pursue and identify the capabilities that it needed to develop. The NSR process focused on the following:

- (a) **Institutionalization of Whole-of-Government Approach in the National Security Planning.** The Whole-of-Government approach was planned to be used as the key concept in designing the current security sector architecture. The particularities of this approach were crafted bearing in mind the local political system and its specificities, the final goal being the development of proper strategies and concepts through combined national effort that would ensure informed strategic analysis and planning, efficient implementation, and adequate transparency and oversight.
- (b) **Deepening interagency cooperation during the security policy planning process.** To ensure a holistic approach and to improve interagency coordination in the field of security policy planning and

implementation, the relevant institutional framework was developed that comprised of three levels: (i) Political Level – Interagency Commission (deputy ministers Level); (ii) Department Level – interagency working groups; (iii) Operational Level – daily interagency cooperation work coordinated, supported and supervised by the NSC staff;

(c) Capacity building for the agencies involved in the NSR process.

The training provided and the practical experience acquired during the NSR process contributed to the capacity building of the staff of the agencies involved;

(d) Ensuring a transparent, open and inclusive process for security planning. The process was designed to ensure communication with and input from Parliament, non-governmental organizations, partner countries and academia, as well as wider public awareness in the process of security policy planning.

2.6. Strategic Documents – Hierarchy of the Planning Documents, Process of Development

The Georgian national security system has developed and been institutionalized rapidly over the last ten years. The creation of the appropriate national legislation, the establishment of the relevant structures, and capacity building were processes that went in parallel with each other. Though none of these processes is yet complete, today, Georgia already has a functional security system capable of reacting to the changing secu-

rity environment and adjusting within its capability limits to efficiently respond to both old and emerging security threats and challenges.

The Georgian Constitution defines in general the rights and responsibilities of the President, Government and Parliament pertaining to the national security of the country. A number of legislative acts further regulate the function of the Georgian security sector. They delimit the security competencies and distribute them among the national agencies, establish interagency mechanisms for coordinated policy-making and policy implementation, as well as provide for appropriate democratic checks and balances within the security sector.

Georgia has two fundamental strategic documents that constitute a basis and provide national level guidance and strategic framework for the security sector-related work of all pertinent agencies.

These two documents are the National Security Concept of Georgia and the National Threat Assessment Document.

The National Security Concept is on the top of the hierarchy of guiding documents for the national security policy-making. It identifies the fundamental national values and interests, the vision of the nation's sustainable development, threats, risks and challenges, and establishes the main directions for national security policy. It serves as a basis for the development of the National Security Strategy as well as agency level strategies.

The National Security Concept is designed by NSC staff in cooperation with relevant ministries and then presented by the President to Parliament, which approves it by the majority of members of parliament.

The National Threat Assessment Document reviews the strategic environment for the upcoming several years and identifies the threats and challenges to the national security of Georgia.

This fundamental conceptual document also analyzes the scenarios of possible development of threats, their likelihoods and results. The threats and challenges identified in the Document are not only of a military nature, but are also foreign policy-related, socio-economic, transnational, and of natural and technogenic origin. Together with the National Security Concept, the National Threat Assessment Document serves as guidance for agency level strategies and security policy-making. Due to its importance, the Document goes through a vigorous annual process of analysis.

Before the recent legislative changes, the National Threat Assessment Document was worked out by the NSC in cooperation with relevant ministries and approved by Presidential Decree. Recently adopted amendments to the Law on Defense Planning, though, have changed this and provide the government with the right to propose this document to the President for approval. These changes also imply that the government will be in charge of drafting the National Threat Assessment Document.

The National Security Review (NSR) represents a process of development of a package of conceptual and strategic documents. It was launched in 2009 and remains yet to be regulated by Georgian legislation. The NSR were to have streamlined the roles and responsibilities of relevant state agencies on the matters of defense and security.

The NSR was planned to be carried out in three stages: the first being the adaptation of the National Security Concept and the National Threat Assessment Document; second, encompassing the development of the agency level strategies; and third, the elaboration of the National Security Strategy that would define the main priorities of the national security policy and overarching national strategy for its development and implementation.

The National Security Review by its nature is an interagency process

that also aims at institutionalizing the whole-of-government approach for the development and implementation of Georgia's national security policy.

All documents developed within its frames would have together served as the foundation for comprehensive strategy to secure Georgia's security and sovereignty. As planned, the NSR process would have served as a framework for the public discussion of security policy planning and the capacity building of the participating agencies.

The National Security Strategy (NSS) was planned to be the last document elaborated within the National Security Review process. It is a fundamental strategic document by its nature that is yet to be recognized and regulated by Georgian legislation.

Being the final product of the National Security Review Process, the NSS would have addressed the shortcomings in the Georgian Security system and provided strategic guidance for national security policy planning and implementation.

The NSS was planned to be adopted at the end of the 2012, but its development process is still incomplete.

Other strategic documents regulating the security sector are the National Military Strategy and the Strategic Defense Review Document (the SDR Document is yet to be recognized as such and regulated by the Georgian legislation).

The National Military Strategy. Based on political directives provided by the National Security Concept and the threats and challenges identified in the National Threat Assessment Document, the National Military Strategy determines the military objectives and missions of the Armed Forces, as well as principles of defense and required military capabilities.

The National Military Strategy serves as a further guidance for defense

sector policy planning. It is analyzed annually vis-à-vis the developing security environment and is amended if necessary. According to recently adopted amendments to the Law on Defense Planning, and despite the fact that the President retains the position of Commander-in-Chief, the approval authority of the National Military Strategy has been transferred from the President to the government.

The Strategic Defense Review (SDR). The Strategic Defense Review process is led by the MoD. The final product of this process, the SDR document, gives a comprehensive analysis of ways and means for adapting the capabilities of the Georgian Armed Forces (GAF) to meet future security needs. It provides a detailed assessment of the current capabilities of the armed forces and identifies deficiencies that need to be addressed in future defense planning in order to meet national and international requirements.

The current SDR Document defines the near and mid-term period force structure that meets the requirements of national defense and provides for the fulfillment of international obligations. It serves as guidance for the different defense agency level concepts, doctrines, programs and manuals.

The SDR Document was a product of interagency cooperation, with civil society involved in the process. The advice of NATO experts was also considered and integrated into the text. The SDR Document is approved by the President.

Apart from the above strategic documents, a number of **agency level planning documents(strategies)** are to be developed including the Foreign Policy Strategy, the Border Management Strategy, the Intelligence Concept and a Cyber-security Strategy. According to acting legislation, the NSC is tasked with organizing this work.

2.7. Crisis Management System

Under the National Security Architecture of Georgia, the National Security Council was designed to be a major player in the handling of political level crisis management.

This system has been in place since 1995. The most common practice in political crisis management in Georgia would be to have the NSC discuss and analyze political level crises, and, based on outcomes of discussions, to identify the measures necessary for crisis management and then for the task relevant agencies to implement them.

The NSC was considered as a major player during crisis management; however there was no strategic vision or guidance to establish the system and institutionalize it. The level of involvement of the NSC in crisis management would depend on the President's will to employ it, based on his personal considerations.

NSC staff played a major supporting role for the NSC in crisis management. It would conduct preliminary analyzes and provide NSC members with proper analyzes for the decision-making process. After decisions were made it would coordinate its implementation on an interagency level.

However, it had no strategic concept or policy guidance on how to fulfill its role. Additionally, it lacked the institutional setup for effective interagency coordination. Interagency coordination mechanisms introduced in 2010 were employed in the drafting and discussion of strategic level documents but had almost no role in crisis management

Since 2009, Georgia has ongoing bilateral cooperation on its crisis management program with the U.K., which is considering providing operational tools of crisis management for NSC staff. This would ena-

ble NSC staff to produce a more effective pattern for interagency crisis management.

As a system, the crisis management system has practice of functioning and producing limited outcomes for political level crisis management but has very little strategic framework on the political level. One of the major shortfalls of the current system is the absence of a strategic concept on crisis management, as well as in planning documents.

There is a presidential decree which identifies the types of crisis and agencies responsible during a national crisis. It sets the major rules of engagement on the interagency level during crisis management and provides general guidance on an operational level.

A number of ministries, such as the Ministry of Interior, Ministry of Healthcare, Ministry of Regional Development, Ministry of Defense (including the National Guard department, which has only a supporting role in most crises) have major or supporting roles during crisis management.

In most cases of crisis, the major responsible body on an operational level is the Ministry of the Interior. In special emergency situations, the Management Center (updated name and functions since 2013) is responsible for handling the nationwide crisis management on an operational level.

Its functions are identified as follows on the MOIA official website (www.police.ge):

The Special and Emergency Measures Center ensures the protection of safety, sovereignty and territorial integrity of the state, conventional borders, public order, objects of the Ministry, strategic pipelines crossing the territory of Georgia. It also provides operative units of the Ministry with relevant resources, prevents emergency situations throughout the country, controls legal shipments of nuclear and radioactive substances, reveals, avoids and prevents any illegal transportation of the mentioned substances and participates in the implementation of security measures.

For comparison, here are the major functions listed on the Estonian emergency and rescue center website (www.rescue.ee)

The Estonian Rescue Board is a government institution under the jurisdiction of the Ministry of the Interior, which has the leading role in planning preparedness for emergencies and the operational management of Regional Rescue Centers. It is also responsible for the development and implementation of national rescue policies.

The main areas of activity for the Estonian rescue service are:

Rescue Works

National fire safety supervision

Crisis management

Emergency prevention

Explosive ordnance disposal

Handling emergency calls

The Rescue Board represents Estonia in bilateral and multilateral relations related to civil protection and cooperates with the emergency management and civil protection bodies of UN, EU, NATO, and other relevant organizations.

As basic comparison shows that the functions of the Georgian Center go beyond crisis management and that it has additional roles. However, these are not defined in any available document and it is unclear what it means from the functional perspective of Crisis Management to state that the Center “ensures the protection of safety, sovereignty and territorial integrity of the state, conventional borders, public order,” especially considering that there are separate departments for public safety and border security and management.

A number of bilateral and multilateral trainings are conducted in Georgia on the operational level of national crisis management. They cover a

variety of issues including search and rescue and interagency co-operation on the operational level. In accordance with official statements and the outcomes of those trainings, international partners are satisfied with the level of progress of the Georgian National Crisis Management System. However, there is no formal national or international assessment available for more substantial analyzes regarding the capabilities and functionality of the Georgian National Crisis Management System.

2.8. Challenges Posed by the New Constitutional Arrangement:

As the amendments to the Constitution enter into force, the executive powers of the Prime Minister and the Cabinet increase at the expense of the presidential competencies, which have been significantly curtailed.

In the process of the forthcoming institutional reshuffling of the security sector, the main challenge is the proper redistribution of those NSC functions and capabilities which provided a well-functioning framework for efficient coordination of the interagency work, facilitating the institutionalization of the whole-of-the-government approach. A renewed institutional architecture should capture all those NSC functions and define the agencies which will be in charge of each of these functions.

First of all, the recently initiated **Amendments to the Organic Law on the NSC** propose that the NSC should be authorized to elaborate only its proposals regarding the National Security Concept, rather than be the agency in charge of development of this strategic document.

According to the same amendments, the NSC is also stripped of the

function of organizing the necessary work for development of other strategic documents. It can no longer establish interagency commissions or coordinate their work. The NSC is entitled to coordinate the activities of unspecified “working groups.”

The proposed amendments also take away from the NSC its right to elaborate the **National Threat Assessment Document** and, notwithstanding of his position of Commander-in-Chief, the right of approving the **National Military Strategy** is transferred from the President to the Government.

The process of the **National Security Review** and the **Strategic Defense Review** lack the appropriate legislative basis, as there is no legislative provision which defines how these processes should be conducted. Based on the available information, the present practices in this respect allow for a certain engagement from the civil society and Parliament in the process of elaboration of the relevant strategic and conceptual documents, though the process is not institutionalized.

3. RECENT DEVELOPMENTS IN THE SECURITY SECTOR

The State Security and Crisis Management Council Established by Government Resolution. As a result of the enactment of the new model of the Constitution of Georgia, the President's authority has diminished, whereas the role of the Government has significantly increased. These changes required a certain reshuffling of the security sector, including the establishment of new institutions, and the development of relevant capacities and mechanisms for interaction within the government system. Subsequently, according to Government Resolution #38 of January 6, 2014, the State Security and Crisis Management Council were established within the structure of government. This has three components: (a) The Council itself – an advisory body to the Prime Minister mainly composed of government ministers; (b) The Office of the State Security and Crisis Management Council – professional staff dealing with national security issues and supporting the activities of the Council; and (c) The Operational Center of Crisis Management. The attempt to create institutional components within the governmental structures that would support the newly acquired security related Cabinet competences (functions) is a positive development. The Government and Prime Minister definitely needed institutional mechanisms and approaches to the issues of national security. However, they should be effective and fully in line with the legislation.

Institutional review of Resolution #38 and the Law on the National Security Council shows a number of similar competencies that can result in many overlaps and duplications of functions in practice. The streamlining of legislation and regulations is needed to clearly divide the functions between the Cabinet and the President with regard to competencies on issues of national security, especially strategic and planning aspects, to establish effective practice.

According to Resolution #38, the State Security and Crisis Management Council is an *Advisory body of the Prime Minister (PM)*. But one should note that the decisions regarding the security issues shall be regulated by the normative acts which, according to the Law of Georgia on Normative Acts, is beyond the PM's competences (the PM can issue only an individual act). Therefore, it is unclear what the added value of creating this new structure is. It should be also underlined that the amended Constitution does not grant the PM any new or special power regarding security matters as the new competencies were given to the government at large. The Cabinet of Ministers is a collective organ itself, entitled to make decisions on issues of national security. Having another collective organ consisting of the same officials, emulating some of the Cabinet functions, does not follow a clear institutional or legal logic. It is necessary to address this issue through developing the relevant legislative framework.

Conversely, the President needs an advisory body – a National Security Council, because the government and ministers are beyond his oversight. Considering the above mentioned, there is no need to establish such a council within the government system either; instead, there is a need to create mechanisms supporting the government in implementing its security sector competencies. Obviously, the mentioned mechanisms should be incorporated into the government system. These mechanisms

should be furnished with a legally determined autonomy and mandate. For example, ensuring the legal validity and clear definition of competences of the Office and the Crisis Management Center requires the adoption of a specific law in this respect.

4. LEGAL OVERVIEW

4.1. The key Institutes of the Security System, their Competencies and the Scope of Oversight Determined by the Law

It is impossible to establish a sustainable security system corresponding to modern democratic standards without introducing clear regulations and separated competences, as well as the mechanisms for effective oversight.

The Constitution of Georgia previously contained a norm that prevented the functional or institutional merger of the military, police and Special Forces by the government of Georgia. “It is prohibited to merge or unite otherwise the military forces, state security and police agencies” – stated Article 78 of the Constitution. The norm was effective until February 2004.

The analysis of the laws provided in the present study of institutions, and the most recent practices, show that several institutions being furnished with military, police and security functions but left beyond the effective oversight, crossed the limits of the law¹, imposing a threat to the stability of civil development and democracy.

The Law on Operative-Investigative Activities provides mechanisms

¹ Preliminary advice, Dealing with illegal surveillance material. By Thomas Hammarberg. EU Special Adviser on Legal and Constitutional Reform and Human Rights in Georgia <http://www.civil.ge/files/files/2013/AdviceIllegalRecordingsJuly2013.pdf>

of a more or less successful oversight of the special services, but the various norms provided by other special laws: On Intelligence Activities, On Counter-intelligence Activities, and On The Public Security Service enable avoidance of the effective oversight of the legality of the performance of the special services. In particular, these laws provide that subject to the prosecutor's and/or judicial oversight are just the investigative practices of the special services and the activities related to the investigation (not intelligence or counter-intelligence). According to the Georgian Law on Counter-intelligence Activities: "the counter intelligence activities by the special services does not constitute being subject to the prosecutor's oversight." Additionally, pursuant to the Georgian Law on The Intelligence Service, the methodology, tactics and organization of collecting the information does not constitute being subject to the prosecutor's oversight. The evidence of absence of minimal judicial oversight instruments is set forth in the Georgian Law on The Public Security Service" which provides that: "performance of the investigative and procedural activities that restrain human rights and freedom guaranteed by the Constitution can be performed only in case of a lawfully motivated decision by the court." As we can see, the given norm of the law refers only to the judicial oversight of the investigative and procedural activities.

The clear separation of police and security functions (most optimally – institutional separation), as well as the introduction of effective systems and instruments of oversight, would be the initial point where the reform of the Georgian Security System should start. It is true that the reform has been implemented recently in the Ministry of Internal Affairs on the decision of the top management of the ministry, but the legal norms remain unchanged and the clear institutional and functional separation has yet to take place. Presumably, the next stage of the reforms shall address these particular issues.

4.2. Ministry of Internal Affairs of Georgia (MIA)

The Ministry of Internal Affairs is the most powerful institute within the security system, enjoying almost unlimited authority, whereas the instruments of effective oversight over it are inadequate and institutionally weak.

The Ministry of Internal Affairs has the following competences: operative, intelligence, counter- intelligence, investigative, police, border protection, terrorism and trafficking combating, fire- rescue, and lustration management.

The Georgian MIA leads the process of coordinating national efforts in the following fields: combating terrorism and trafficking, transportation of radioactive substances, determination and enforcement of the state border regime, as well as establishment, enforcement and implementation monitoring of regulations on state secrets.

The Department of Counter-intelligence of MIA has the authority to organize all national counter-intelligence activities and coordinate the work of the special services (among them the intelligence department and the relevant structures of the ministry of defense). These special services are directly accountable to the MIA.

As mentioned above, the competences of MIA also include intelligence activities; however, in contrast to the counter-intelligence sphere, it is subordinated to the central organ of the intelligence system, the Georgian Intelligence Service.

As intelligence and counter-intelligence activities are similar and often identical, the division of managerial authority within and across above agencies hinders effective management. The situation is further complicated by the fact that the Georgian Intelligence Service is an independent body subordinated solely to the Prime-Minister, whereas the

Department of Counter-intelligence of the MIA is a structural unit of the ministry and is directly subordinated to the Minister of Internal Affairs.

The Georgian Ministry of Internal Affairs, as an institution of the Government of Georgia, is accountable to the government and is subject to administrative and political oversight by the government. The other forms of oversight over the MIA are controversial.

The provisions stipulated in different laws leave loopholes which allow the unauthorized conduct of counter-intelligence activities. The activities undertaken within the scope of counter-intelligence, such as: undercover audio/video recording, hidden cinema/photo shots, use of TV cameras and other types of the electronic devices do not require obtaining authorization from a judge. According to the Law on Counter-intelligence Activities, only electronic surveillance and control of written correspondence are subject to the judicial oversight. Attention should be paid to the fact that present provision affects not only the MIA, but all structures that are engaged in counter-intelligence activities, among them the Georgian Intelligence Service and the relevant authorized structures of the MoD.

The Law on Counter-intelligence Activities provides that the counter-intelligence activities of the relevant special services (among them the MIA structures) are not subject to the prosecutor's oversight.

The Law on The Public Security Service contains a provision according to which only the investigative and procedural activities undertaken by the MIA are subject to judicial and prosecutorial oversight.

Based on the analysis of the relevant stipulations of the acting laws, one can conclude that the only effective mechanism of oversight over the MIA (as well as over other special services) is the Parliament's Confidence Group.

4.3. Ministry of Defense of Georgia (MoD)

One of the key institutes of Georgia's security system is the Georgian Ministry of Defense, the state agency that is in charge of the management of the Georgian Armed Forces. The MoD defense is responsible for the preparation and development of the armed forces, as well as the accomplishment of assigned objectives.

Besides the mentioned key function, the competences of the MoD include other functions stipulated by different laws. Among these competences are operational, intelligence and counter-intelligence, investigative, law enforcement and border defense related activities. In addition to the above, MoD authorities include the control of the movement of military equipment, dual use goods and radioactive substances, combating terrorism, and participation in the determination and management of air space regulations.

With regards to the defense management, the Georgian Ministry of Defense is responsible for working out important documents such as the: Defense Planning Regulation, Defense Planning Manual, and military development programs.

The Georgian Ministry of Defense, as a governmental institution is subject to governmental oversight. However, considering its military specifics, it is accountable to the President of Georgia – the Supreme Commander-in-Chief of the Georgian Armed Forces and to the President's advisory body – the National Security Council of Georgia.

The intelligence, counter-intelligence and operational activities of the Ministry of Defense, as well as the structural units implementing these activities, are left without proper judicial, prosecutorial or parliamentary oversight. This issue was also discussed above, in the chapter on the Ministry of Internal Affairs.

4.4. Intelligence Service

The Intelligence Service of Georgia performs the intelligence and counter-intelligence activities within the territory of Georgia and outside its borders. Furthermore, the Intelligence Service of Georgia is the main institution of the system and is responsible for coordination of the system's operation. The Intelligence Service of Georgia is the key part of the system combating terrorism.

The Intelligence Service ensures the elaboration of the National Intelligence Program based on the national security conception of Georgia. The National Security Program determines the goals and objectives as well as directions and priorities of the intelligence activities and is approved by the Prime-Minister of Georgia.

According to the Georgian Law on Intelligence Activities, the official oversight over the intelligence system is carried out by the Prime-Minister of Georgia. This provision means that the official oversight over all the institutions included in the intelligence system (among them those of the Ministry of Internal Affairs and the Ministry of Defense) is a personal discretionary right of the Prime-Minister (not the government). The newly launched constitutional model decreased the President's competences and institutionally empowered the government; therefore, when designing the oversight instruments, the consolidation of the institutional role of the government should be considered. With regards to the resources and opportunities, the factual reality should be taken into account: the operation of the Prime-Minister of Georgia, as the leader of the government, is supported by the state government's chancellery, which is incapable of performing such important duties neither legally and administratively, nor in practical terms. This matter is another argument proving that, in

the course of reforms in the security system and the Security Council, an autonomous structure should be established by the law within the Georgian governmental system that will ensure the effective participation of the Georgian government in the new architecture of the security sphere.

The above-listed weaknesses of the intelligence/counter-intelligence activities and of the effective parliamentary, prosecutors', or judicial oversight over the institution are similarly characteristic to the intelligence system and intelligence service of Georgia. It is noteworthy that the Georgian Law on The Intelligence Service provides that the methods, tactics and organization of collection of intelligence information do not fall under the prosecutor's oversight. In other words, compelling or other violations in the course of collecting information remain beyond effective oversight, while the information captured through unlawful means and methods can be used by investigative bodies and/or the Special Forces. Such a reality is quite far from democratic standards. The similar provisions of the discussed law, as well as of the other laws referring to intelligence or counter- intelligence activities contain significant threats. Therefore, the amendments should become subject to special review, especially due to the fact that we have already faced the practice of unlawful collection of data by the Special Forces.

The most important and effective legal instrument of the parliament's oversight over the Georgian Intelligence Service is through the Group of Confidence of Parliament.

PROCEDURAL CHANGES OF COUNTER-INTELLIGENCE ACTIVITIES

According to the Resolutions of the Government of Georgia #343 and #344 of December 17, 2013 (On Operating a Database and the Exchange

of Information between the Special Services Carrying Out Counter-intelligence Duties and other Governmental Institutions in order to Ensure Maintenance of the State Security Interests, and On The Rule of Coordination of the Special Services and Organization of Uniform Counter-intelligence Activities in the Country), all public institutions, both special services and other governmental institutions, are obliged to immediately provide the Department of Counter-intelligence with any information related to “the list of notes regarding the information of the uniform counter-intelligence performance-” fully, and precisely.

This regulation contravenes the principles of informational freedom, private, commercial and professional secrecy, as well as the fundamental hands-off policy of private life – secured by International Acts and recognized by the Georgian Constitution-carrying out activities of such power or obligation do not fall under the effective judicial or prosecutor’s oversight. According to Clauses 25 and 27 of the Georgian Law on The Counter-intelligence Activities, the effective judicial or prosecutor’s oversight can be applied only to operative-technical activities, whereas issues considered under the named resolution of the government do not belong to the type of operative-technical activities.

Attention should be paid to the fact that the rights guaranteed by the Constitution of Georgia can be limited only by means of a law adopted by Parliament and with the court’s involvement. In a case under consideration, the Government’s Resolution is not a law adopted by Parliament – i.e. contradicting the Constitution, and without the court’s involvement it allows the intervention in a person’s private, professional or commercial life or matters, and violates the right of confidentiality.

“The list of notes regarding the information of the uniform counter-intelligence performance” approved by Resolution #343, considers the matters that enable different interpretation or understanding. “Infor-

mation regarding the detection of espionage signs; information about the affiliation of a Georgian citizen in a military service of a foreign country or a foreign organization; Information about collaboration with separatists” – cannot be equally understood by the regional department of the Ministry of Environmental Protection, by the regional department of the Civil Registry Agency and by the Department of the Counter Intelligence, or by their staff. The Georgian Constitution acknowledges the right of double citizenship, therefore according to the Resolution, affiliation in a military service of a country of the primary citizenship can cause restriction of a person’s rights as a Georgian citizen. Furthermore, Georgian legislation does not provide a definition of the term “separatists,” consequently, it can have a wider range of meanings (e.g. not only the so- called administrative institutions of the occupied territories, but also the civil, youth or community unions of the population living there) and result in the restriction of rights of citizens of Georgia, and foreigners living in Georgia, or persons without Georgian citizenship.

4.5. The Group of Confidence of the Parliament of Georgia

The Executive Government performs its duties regarding security by public and specific, or undercover manners.

Consequently, the state budget allocates sufficient funding for the named activities. With regards to the transparency of the budget and to security interests, it would be reasonable to begin oversight over the

undercover operations of the institutions of the Executive Government firstly from their budgetary control.

ACCORDING TO THE EFFECTIVE LEGISLATION IN GEORGIA,
THERE ARE TWO FORMS OF BUDGETARY CONTROL:

- a) Oversight over the spending of funds approved by the state budget (i.e. post factum oversight), carried out by the state audit office; and;
- b) Involvement in and monitoring of the process of designing/approval of the budget allocations (i.e. pre-control) carried out in the process of designing/approval of the budget- a process which is led by the Ministry of Finance, the Government and Parliament.

The oversight over the undercover or special programs of the Executive Government cannot be effective unless both forms of control are employed. Otherwise, in the case of public services, the collection of information regarding spending and monitoring are carried out by other civil institutions, whereas regarding the special programs, the data is not public and can be inaccessible even for the higher political authorities.

In particular, the mentioned important function, together with the special competence, is assigned to the Parliament's Group of Confidence – a small but representative group of Members of Parliament. In order to ensure mobility, the number of group members has been determined at five by law. However, the membership of the Minority representative in the group is guaranteed, aiming at the access to the information and political participation.

Unlike the rules of affiliation in the other parliamentary committees, there are terms and conditions set forth that should be satisfied in order to win membership of the Group of Confidence.

Namely:

- a) A member of the Group of Confidence shall be selected only among the members of the Defense and Security Committee of Parliament;
- b) The candidate for group membership shall agree to affiliate with the group and take over the duties and responsibilities related to state secrets;
- c) The candidate for group membership shall undergo a special inspection and should have a positive reference.

According to the Law on The Group of Confidence, when reviewing the draft state budget, and in cases when Parliament itself is not provided with information regarding the special programs, and activities and the allocations for those purposes, the Group of Confidence shall be provided with the mentioned information after which the group submits its conclusions and findings regarding the special programs and sufficient assignments in the state budget to the Financial-Budgetary Committee of Parliament. This is a very important mechanism as the authorized representatives of Parliament get the precise information and have the opportunity to discuss specific issues, hold debates with the government regarding the planned special programs, refuse or request corrections to the budget, or issue a negative conclusion.

The issue under the competence of Group of Confidence that is subject to Parliament's review necessitates a conclusion provided by the Group of Confidence. Consequently, all special programs and the financial topics thereof (as part of the state budget) need the support of the Group of Confidence.

In the period after the approval of the state budget, the government's representatives shall submit their performance report not less than once a year, and whenever the Group of Confidence requires so, the governmental institutions shall submit reports/information more frequently.

If the Group of Confidence detects within its mandate a suspicious action or circumstance, it can put forward the issue of both administrative and criminal responsibility to the government or investigative organs. If such a mechanism appears ineffective or unsuccessful, the Group of Confidence is entitled to initiate the establishment of a temporary investigative commission within Parliament in order to study the performance of the specific authority. Such an initiative can result in proceedings of official and criminal responsibility towards the person under consideration.

5. INSTITUTIONAL OVERVIEW OF THE SECURITY SECTOR AGENCIES

5.1. Ministry of Defense of Georgia

5.1.1. Historic overview

The process of formation of the Ministry of Defense of Georgia started in the fall of 1990 when, following the first multiparty democratic elections held on the Soviet Union territory, a pro-independence alliance of political parties came to power in Georgia. As a result of the 1991 military coup d'état, the process of establishment of the Ministry of Defense was delayed and later acquired a spontaneous and fragmented character.

The targeted and methodical development of the defense agency was hindered by the existing chaotic situation in the country, which was a result of the existence of several self- controlled paramilitary formations and separatist conflicts in Abkhazia and Tskhinvali regions stirred up by Russia. Another important factor hindering the development was a protracted economic crisis, which for its part led to a severe deficit of financial resources. In 2002, the Georgian defense budget consisted of only around 75 million Georgian Laries, which significantly constrained the process of the establishment and development of various structures of the Ministry and the armed forces in general.

It should be noted that from 1994-1998, the former soviet and later Russian military officer, Vardiko Nadibaidze, was Head of the Ministry of Defense of Georgia. During this time, cleansing the Georgian defense system and the Armed Forces of Soviet traditions, and then modernization, was not really a priority.

Among other reasons that negatively impact the effectiveness of the defense system have been, and in many respects continue to be, the following: the deeply rooted destructive practices of single-handed administration of government agencies by their heads, a lack of institutionalization of defense planning and management processes, and limited effectiveness of training, education and human resources management systems. Due to the above reasons, it proved to be impossible to properly utilize the defense agency management and the combat experience accumulated throughout the first decade after independence.

Due to these factors, unlike some post-soviet countries, and most notably the three Baltic Republics which successfully used the first post-soviet decade to reform and transform their national defense systems, Georgia could be said to have wasted this time.

In 2002, with the support of the U.S. government, the Georgia “Train and Equip” Program (GTEP) was launched, and a number of staff and tactical trainings were conducted within its frames. Several infantry battalions were trained and equipped in accordance with modern military standards. It is important to point out that the program budget exceeded the 2002 and 2003 annual budgets of the MoD. The Georgia Train and Equip Program was completed in 2004 and in 2005 it was replaced by the Georgia “Sustainment and Stability Operations Program” (SSOP), which continued the training and equipping of Georgian field and staff units.

The above two programs played a critical role in establishing western military standards in the Georgian Armed Forces and building their core.

Alongside these programs, through the assistance provided by the US and European partner countries, Georgia managed to build and partially institutionalize the defense planning and management, military personnel management, and training and education systems. Guiding documents of the defense sector, and the mechanisms for their implementation and implementation monitoring, have been also developed.

The skills and experience acquired as a result of participation in NATO-led and international coalition anti-terrorist operations significantly advanced the interoperability of the Georgian Armed forces with NATO and further enhanced the compatibility of the National Defense System with modern standards.

5.1.2. Existing challenges

Despite the above-mentioned successful reforms, more has to be done to further develop and institutionalize the defense system. Making the existing formal mechanisms of defense policy planning, implementation and review fully operational and establishment of operational practice based on these mechanisms and their further improvement remain amongst the main challenges the defense system faces today.

An excessive centralization of the management of the Ministry of Defense and the Armed Forces is also a significant problem. Despite the clearly expressed will of the current leadership of the Ministry of Defense in this respect, the process of decentralization is progressing slowly. One of the most important reasons that contribute to this is the lack of qualified personnel, as well as the slow pace of development of the defense planning and management sub-systems.

It is owing to the goodwill of the Ministry leadership that the trans-

parency of the defense agency and the engagement of civil society in developing defense sector guiding documents have both significantly increased. Hopefully, these positive processes will be correspondingly institutionalized, to ensure that their sustainability is not dependent only on the goodwill of the defense leadership.

5.1.3. Legislative Framework of Defense Operations

In accordance with Article 98 of the Constitution of Georgia, defensive war is a sovereign right of Georgia, and Georgia has the armed forces to defend its independence, sovereignty and territorial integrity, as well as for the purpose of honoring its international obligations. The same article stipulates that the types and composition of the armed forces shall be determined by law; the structure of the armed forces shall be approved by the President of Georgia, while their strength is approved by the majority of all current members of Parliament upon the submission of the relevant proposal on this by the National Security Council.

The Law of Georgia on Defense defines the frames for defense activities. According to this Law, defense implies:

- Legal regulation of the defense field;
- Assessment and forecasting of the threats of war;
- Building, training and ensuring the combat readiness of the armed forces;
- Manufacturing of the armament and military equipment, and its improvement.
- Ensuring the mobilization readiness of the country's economy, national government and local self-government bodies, enterprises, organizations and population.

- Creation of supplies of material assets required for mobilization;
- Planning and implementation of defense measures;
- Conducting preparations for defense readiness of territories and communications;
- Ensuring protection of state secrets;
- Development of military science;
- International cooperation contributing to ensuring the national defense.

5.1.4. The Main Mission, Objectives and Functions of the Ministry of Defense

According to Article 9 of the Law of Georgia on Defense, the Ministry of Defense constitutes a state organ governing the Armed Forces of Georgia, which is responsible for their training and development, as well as implementation of the defense tasks assigned to them.

The Ministry of Defense is an executive power agency, established in accordance with the Constitution and the Law of Georgia on the Structure, Authority and Rules of Operations of the Government of Georgia. Within the authorities granted by the law, it ensures the implementation of state policy in the defense field. The MoD guarantees the building of the Armed Forces and their permanent combat and mobilization readiness, strengthens their combat efficiency, defends the independence of the country and deters possible aggression.

The Minister of Defense is responsible for leading and managing the defense agency. The Minister is a state official and political figure who is accountable to the President of Georgia – Commander-in-Chief of the Georgian Armed Forces – and the Government of Georgia.

The MoD conducts its activities in accordance with the Constitution, the Law of Georgia “on the Structure, Authority and Rules of Operations of the Government of Georgia,” “The Law of Georgia on Defense,” decrees and orders of the President of Georgia, legal acts of the Government of Georgia and the Prime Minister, Regulation of the Ministry of Defense, and legal acts of the Ministry of Defense.

THE MAIN OBJECTIVES OF THE MINISTRY OF DEFENSE ARE THE FOLLOWING:

Building of the Armed Forces and ensuring their constant combat readiness; provision of military support required for implementation of political decisions made by the highest legislative and executive organs of Georgia; determining the threats of war and the operational-strategic organization of the Armed Forces; and conducting military cooperation in accordance with the international treaties and agreements to which Georgia is a state party.

AMONG THE MAIN FUNCTIONS OF THE MOD ARE:

- Enhancement of combat training, combat readiness and combat efficiency of the Armed Forces, as well as development of plans for putting them and mobilization reserves into combat readiness mode and plans for their utilization;
- Analysis of politico-military situation in Georgia and abroad, and preparation of adequate decisions based on this analysis;
- Supplying the Armed Forces with military hardware, armaments, equipment, combat materials and other military assets;
- Implementation of the treaties on arms control and confidence and security building in Europe, participation in the “Partnership for Peace” program and implanting the lessons learned from the acquired experience into the Armed Forces.

- Training of military personnel and development of military science;
- Development of the military budget, preparation and presenting of proposals on drafting, amending or repealing of legal and normative acts to the President and the Government of Georgia;
- Ensuring the utilization of the Armed Forces in emergency or war situations based on a Presidential order;
- Within its competence, issuing of licenses and permits related to the flow of armaments.

5.1.5. Competences of the Defense Minister

The Defense agency is headed and represented by the Minister of Defense, who must be a civilian. The Defense Minister is appointed and dismissed by the Prime-Minister, and is also accountable to him.

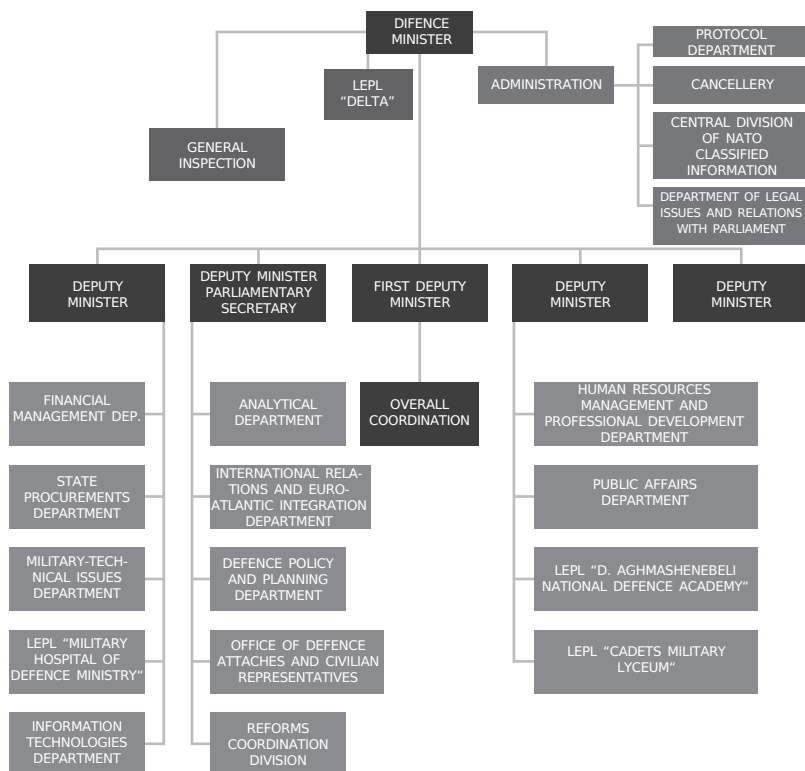
AMONG THE MINISTER'S AUTHORITIES AND RESPONSIBILITIES ARE:

Organization of the efforts to ensure the defense and security of the country, and taking the necessary actions for implementing the defense related legislation; coordination and oversight of activities of structural units and relevant officials of the Ministry; issuance of relevant normative acts and oversight of their implementation; proposing the candidate for the position of Chief of General Staff and dismissal of the acting Chief of General Staff to the President; submission of candidates for deputy ministerial positions and proposals on their dismissal to the Prime Minister; submission of annual budget proposals of the MoD to the Prime Minister and ensuring accurate and purposeful spending of the budget; establishment of advisory bodies, commissions and councils, as well as definition of their authorities and rules of operations.

5.1.6. Structure of the Ministry of Defense.

The structure of the Ministry includes the General Staff and the Civilian Office of the Ministry. The Minister of Defense exercises functions assigned to the Ministry of Defense through the Civilian Office.

THE FOLLOWING CHART SHOWS THE STRUCTURE OF THE CIVILIAN OFFICE OF THE MINISTRY OF DEFENSE:



FUNCTIONS OF THE CIVILIAN OFFICE OF THE MINISTRY OF DEFENSE INCLUDE:

- Political leadership over the Armed Forces and their overall governance aimed at ensuring the implementation of the national defense policy;
- Conduction of the defense policy and participation in the development of the National Security Concept;
- Participation in the elaboration of defense -related legislation and controlling the strict adherence to this legislation;
- Development of defense policy plans and controlling their implementation;
- Development of programs and plans necessary for ensuring the readiness, development and improvement of the Armed Forces; ensuring the development of relevant projects of financial and material-technical support necessary for securing the readiness of the Armed Forces;
- Definition of short and long-term military threats and the development of respective contingency plans for the Armed Forces;
- Oversight aimed at ensuring the purposeful spending and utilization of the defense budget and material assets;
- Taking relevant measures to provide the Armed Forces with military the armaments and equipment necessary for ensuring combat readiness and appropriate training;
- Elaboration of plans for the development of the national defense infrastructure and communications;
- Ensuring development and subsequent implementation of politico-military education and HR policy programs for proper implementation of the national defense policy;
- Development of plans for international politico-military cooperation

and drafts of international treaties and agreements in the defense sphere;

- Elaboration of the intelligence policy of the Ministry and exercise of civilian control over it;
- Defining types of military services for military servicemen and control of passing military service in accordance with the rules defined by the law;
- Definition of the policy on the Armed Forces Reserve formation;
- Facilitating the cooperation between the Armed Forces and society for strengthening the civil-military relations;
- Ensuring the management of defense resources.

5.1.7. General Staff

Alongside the Civilian Office, the General Staff is also a structural unit of the Ministry of Defense of Georgia, which carries out operational management of the Armed Forces.

The chief of the General Staff is the Head of the General Staff, who is also the chief advisor to the President – the Commander-in-Chief of the Georgian Armed Forces. He/she is responsible for the implementation of the functions assigned to the General Staff.

IMPORTANT FUNCTIONS OF THE GENERAL STAFF INCLUDE:

- Ensuring the proper combat training and development of the Armed Forces, as well as accomplishing the tasks assigned to them;
- Securing operational and mobilization readiness of the Armed Forces;
- Commanding the Armed Forces during times of war;
- Ensuring the development of the Armed Forces command system;

- Development and implementation of armed forces reserve training programs;
- Conducting military cooperation in line with international treaties and agreements to which Georgia is a member;
- Development of national defense plans;
- Submission of recommendations on budget requirements and fund allocations for the Armed Forces to the Ministry of Defense;
- Submission of requests to the Ministry of Defense on providing the Armed Forces with armaments, military equipment and other material assets;
- Elaboration of plans for recruitment to the Armed Forces and provision of relevant training and education;
- Conduction of intelligence activities within its competence;
- Ensuring the distribution of armaments, military equipment and other material assets to different branches of the Georgian Armed Forces;
- Development of mobilization plans;
- Ensuring the implementation of programs and plans necessary for improving the readiness and advancing the development of the Armed Forces;
- Undertaking measures to prevent the materialization of short- and long-term threats as identified by the MoD;
- Building and development of infrastructure necessary for the functioning of the Armed Forces;
- Ensuring the passing of the military service by military personnel in accordance with the rule defined by law;
- Assignment of military servicemen to the respective military units;
- Proposing the sending of military servicemen to receive education and acquire certain skills at military education institutions;

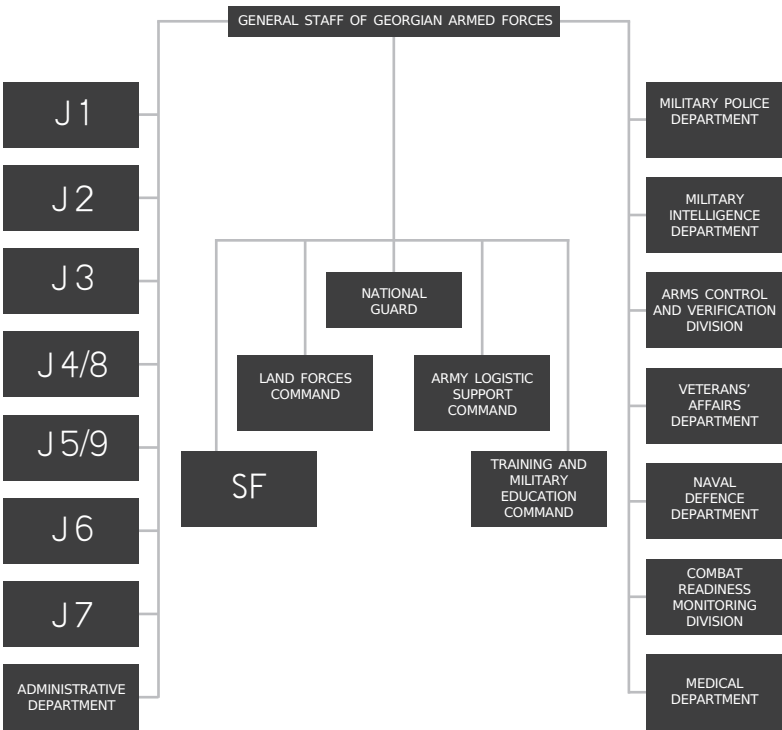
- Definition of the timing and venue for passing the military reserve service.

THE GENERAL STAFF OF GEORGIA INCLUDES THE
FOLLOWING STRUCTURAL UNITS:

1. General Staff Command;
2. J-1 – Military Personnel Department;
3. J-2 – Intelligence Department;
4. J-3 – Operational Planning Department;
5. J-4/8 – Logistical and Program Budgeting Department;
6. J-5/9 – Strategic-Operational Planning, Doctrine/Concept Development and Civil-Military Relations Coordination Department (also does reform planning and monitors the implementation);
7. J-6 Communications and Information Systems Department;
8. J-7 – Military Education and Combat Preparation Department;
9. Administrative Department of the General Staff;
10. Topographic Division;
11. Combat Readiness Monitoring Division;
12. Arms Control and Verification Division;
13. Military Police Department;
14. Training and Military Education Command;
15. Army Logistics Support Command;
16. National Guard Department;
17. Special Operations Forces;
18. Military Intelligence Department;
19. Medical Department;
20. Separate Medical Department;
21. Veterans' Affairs Department;
22. Naval Defense Department.

The Chief of General Staff has one first deputy and two deputies.

STRUCTURE OF THE GENERAL STAFF OF GEORGIAN ARMED FORCES



5.1.8. Structural Reorganization of the Armed Forces

As a result of reorganization conducted in 2013 and aimed at its optimization, a number of important changes were made in the structure of the Armed Forces:

- Two independent Western and Eastern Operational Commands were created;
- Establishment of separate intelligence and medical battalions were planned to support operational commands in the eastern and western directions;
- Formation of the Aviation and Air Defense Command has also been planned to place all aviation and air defense assets under a unified command.

Since the above reorganization is still ongoing, an assessment of the success of this reorganization should be made at a later stage. However, it can be concluded in advance that the creation of Eastern and Western territorial commands corresponds with the geographic characteristics of the country and is based on conclusions drawn from the experience of the 2008 war with Russia. At this point, it is important to ensure the proper formation of these commands and their supporting units, the setting up of a sound command and control chain, and the provision of the adequate training, education and logistical support. This process should be thoroughly thought through and proper calculations and planning must be made. All these require the activation of the work of the Management Board and the Decision-Making Council, as well as of the Planning, Programming and Budgeting System. Here, it should be also noted that the implementation of the guiding documents of the defense sector and of the structural changes of the Armed Forces, as well as the proper functioning

of each structural unit of the defense system and of each military unit significantly depend on the existence of adequate Standard Operational Procedures (SOPs) and their accurate implementation. In this sense, the situation in the General Staff and the Armed Forces is worrying. A number of instrumental SOPs at the staff and field unit level have not even been developed, leaving them alone in their implementation.

It is of critical importance to prioritize the above issues and to direct appropriate efforts towards their targeted and systematic elimination.

5.1.9. Professionalization of the Armed Forces

Special attention should be paid to the decision on transition of the armed forces to fully professional. According to this decision, at the first stage, the duration of mandatory military service decreased from 15 to 12 months. If one looks back over the recent decade of the Georgian Armed Forces, it is easy to see that the views on transition to fully professional armed forces have changed several times. Initially, it was planned to transform a largely conscript-based armed forces into a mostly contract-based one. The next decision pushed for full professionalization of the armed forces. This approach was replaced later by the one that advocated on maintenance of a partial conscript system. The new Head of the Ministry of Defense, just a short time after taking office, once again revised the decision and put the armed forces again on the track to full professionalization.

Based on the above, it is safe to assume that decisions regarding this professionalization have neither been well analyzed, nor preceded by relevant studies that would have estimated and assessed the impact of each alternative approach on the defense capabilities of the country and the budget.

Within the frames of the MoD function the following legal entities of public law:

- a) The Military Hospital of the Ministry of Defense;
- b) The Cadets' Military Lyceum;
- c) The Sports and Health Center;
- d) The Davit Aghmashenebeli National Defense Academy of Georgia.

5.1.10. Defense planning, management and resource allocation

Each organization requires an effective management system for its activities. The Ministry of Defense is no exception in this regard. Defense planning and management and the allocation of existing resources require effective internal management. Since 2006, the Ministry of Defense has been working with the support of foreign partners on the establishment and development of such a system.

In order to institutionalize and optimize the defense system management process, a Decision Making Board (DMB), Management Team (MT) and thematic working groups have been created. Members of the DMB are deputy defense ministers and deputies of the Chief of General Staff, as well as the Head of the administration of the Ministry of Defense and the Director of the Defense Policy and Planning Department. The First Deputy Minister of Defense and Chief of General Staff are co-chairs of the Board. The DMB makes decisions on important issues related to defense planning, management and resource allocation.

The Management Team (MT), mostly comprised of the heads of the departments of the Ministry's Civilian Office and the General Staff, and

the Commanders of the Armed Forces, prepares and presents issues for consideration, and recommendations on possible decisions, to the DMB. The MT is chaired by the Director of the Defense Policy and Planning Department, while head of J-5 Department of the General Staff serves as a co-chair. The MT reviews issues related to defense management, coordinates development of strategic and intra-agency documents, provides alternative options for the defense programs and other issues, and makes decisions which go beyond the competence of single structural units. In order to prepare issues for review within the MT, five permanent working groups were created under the MT and are comprised of experts from different fields. These groups are: The Human Resource Management Working Group, The Material Resource Management Working Group, The Education and Training Working Group, The NATO and International Relations Working Group, and The Force Management Working Group.

It should be noted that the above-mentioned management system has not yet become fully operational. Decisions are frequently made that bypass this system, sharply increasing the likelihood of making uncoordinated and suboptimal decisions, and thus harming the efficiency of the defense system and increasing unnecessary costs. It also negatively affects the cooperation between the Civilian Office of the Defense Ministry and the General Staff. It is important to note that there is a deficit of experts in different fields, who are needed to staff these working groups and so make them fully operable.

Moreover, there is a pressing need for the devising and activation of viable mechanisms for the implementation of monitoring of action plans approved by the Ministry. Progress in this respect partially depends on how effectively the newly created Division for Coordinating the Reforms will discharge its functions, as one of Division's major tasks is exactly

monitoring of important action plans and drafting and presentation to the leadership of relevant reports.

Horizontal and vertical communications practices within MoD Civilian Office, between it and General Staff and within Armed forces require some streamlining. This will ensure that each employee, whether civilian or military, is better informed and allow them to actively engage in initiation and implementation of needed changes.

Planning, Programming and Budgeting System (PPBS) development and introduction started back in 2006. Relevant personnel have been trained within the program supported by foreign partners, guiding documents have been developed, and the system started functioning at the basic level. Unfortunately, in 2010, operation of this system was stopped. The relevant structures, which more or less successfully ensured the preparation of basic defense programs and the general viability of the system, have been dismantled. Regrettably, neither the personnel trained for servicing the system, nor their expertise, was retained. Stemming from the above, while the initiative of the MoD's new leadership to prepare a program-based budget should be welcomed, its realization will require enormous, long-term and consistent efforts. Finally, one has to mention the latest positive developments in this respect, namely the adoption of Defence Resources Management Concept and Defence Planning Handbook.

5.1.11. Personnel Management and Professional Development

The success of any organization, be it a state agency, private company, educational institution or non-governmental organization, is significantly

dependent on the availability and proper management of the relevant human resources. Human resources also constitute the most important asset of the Ministry of Defense. There is a direct correlation between the efficiency of its civilian and military personnel management system and the country's defense capacity.

10 years earlier, the defense personnel management system was failing to meet even the basic standards and was practically dysfunctional. Such an unenviable starting position, the initial inertness and a lack of expertise caused the reformation to progress at a snail's pace during its first years. As expertise and the awareness of the importance of the above system grew, gradually it became possible to speed up the reform, and the components, structures and fundamental documents necessary for the proper functional of the system were developed. More attention was paid also to the training of relevant specialists. Unfortunately, the implementation of the reform slowed down once more, until 2013, when the new leadership of the MoD prioritized again this field and started taking appropriate steps for the further development of the personnel management system.

If we compare the current status with the situation that existed 10 years ago, the acting system can be considered as a significant achievement. However, much more still needs to be accomplished to institutionally streamline the Defense Ministry's personnel management system, to ensure the effectiveness of all of its components and operation in line with modern standards.

The MoD's human resources management system is comprised of a number of important components, such as: personnel selection and recruitment, training and re-training, career development planning and management, evaluation, incentives, promotion, and retention.

It is critically important to ensure the required number of qualified personnel at each level, or in other words – a balanced personnel pyra-

mid. In conditions of constant rotation of civilian and military personnel, it is important to create and balance the personnel pyramid, which is a time- and labor- intensive process.

Currently, as a result of the work undertaken by the Ministry, the organizational descriptions of the structural units and the job descriptions of the personnel, both for the Civilian Office and the Armed Forces, have been developed. The civilian and military personnel evaluation and career management system, as well as the selection, incentives, retention, compensation and other components of the personnel management system, are already functional, but require further improvement and institutionalization. Based on the preliminary financial calculations and expected impact analysis, MoD plans the transition from position-based to a rank-based compensation system.

In 2013, the new leadership of the Ministry of Defense undertook a number of changes within the personnel management system. Due to a close link between the two below areas, and with the purpose of ensuring a better coordination, the human resources and education systems were put under unified management. The Human Resources department was separated from the Minister's Administrative Department and placed under one of the deputy minister's office, who is also responsible for the management of the education system of the Ministry. The competences of this department were increased and, along with the human resources management function, it acquired the civilian and military personnel management policy development and implementation facilitation function. The name of the department was changed, new structural units were added to it and the number of staff was increased.

Guiding documents on personnel management have been also developed, such as the Human Resource Management and Professional Development Concept, Military Personnel Management Strategy, new Personnel

Promotion Concept, new Regulation for Selection and Evaluation of Participants in the Professional Development Programs and etc. Furthermore, the personnel management reform implementation plan for 2013-2014 has been developed. The adequacy of the implementation of this plan will determine whether the actions written on paper will stay on paper or be carried out in life.

CIVILIAN PERSONNEL MANAGEMENT

It should be noted that the civilian personnel management system is better developed than that of the military personnel, which should not be surprising- with the smaller number of civilian personnel working in the Ministry, as well as better availability of civilian education opportunities provided, it is only natural that developing and streamlining the personnel management system for civilians proved to be a far easier task than doing the same for the militaries.

Despite being more functional, the civilian personnel management system of the Ministry of Defense or of any other government agency has one fundamental shortcoming, which poses a serious threat to the stability and efficiency of the system. This deficiency lies in the absence of separation in the state agencies of the career public service from political positions. In the state agencies, there is not a position of so-called State Secretary – the highest official in a career public service – who would ensure the apolitical nature of the career service, as well as its independence from the political leadership of the state agency. According to western practices, the State Secretary is also responsible for the personnel management system and serves as a guarantee for the de-politicization of the process of changes in personnel. The independence of the State

Secretary from the political leader of a state agency is guaranteed by the fact that he/she is appointed for a certain term and maintains the position regardless of the wish of the political leader of the agency.

MILITARY PERSONNEL MANAGEMENT

The General Staff's Forces Personnel Department – J-1, alongside the Human Resources Management and Professional Development Department, is involved in developing the military personnel management policy. It plans, implements and conducts oversight of the measures necessary to introduce the personnel policy in the Armed Forces.

The Personnel Department is responsible for the recruitment, selection, assignment-appointment, assignment of military specialties, training and re-training, professional development, retention and career management of the military personnel. It also develops mobilization resource plans, staffs the armed forces with military personnel and contracted civilians, and conducts registration and control of human resources.

The establishment and activation of military personnel Selection Boards should be specially highlighted as important progress achieved in the development of the military personnel management system. The mechanism of non-disclosure to board members of the names of candidates presented for selection is being introduced. Such practice should significantly reduce the risks of subjective decision-making. Another effective mechanism for ensuring objective decision-making is the specific practice of mutual control between board members. According to this practice, if one of Selection Board member's evaluation significantly differs from the evaluations of the others, he/she is required to substantiate his/her own decision with arguments in front of the other members.

In case of achieving optimization in the work of the Selection Boards, the effectiveness of the military personnel management system and the motivation of the military personnel will grow significantly.

Attention should also be paid to the military personnel evaluation system, which, although it operates more or less efficiently, requires further improvement to ensure its periodicity and to minimize the risks of subjective evaluation.

The effectiveness of the military personnel management system significantly depends on whether the career development and promotion process is based on the training, education and evaluation components.

5.1.12. Military Education and Combat Training System

It is no secret that the armed forces experience a deficit of qualified military personnel. One way to address this issue is to further develop the National Military Education and Combat Training System. The issues of institutionalization of the development and introduction process of various specific military doctrines and field manuals, as well as the introduction and implementation of the mechanisms ensuring the sharing of lessons learned, remain problematic.

The following structural units of the Ministry conduct the policy development and planning for the system, as well as relevant coordination and oversight: Military Education and Training Command, J-7 – Military Education and Combat Readiness Department of the General Staff, and the Human Resources Management and Professional Development Department.

Military Education and Training Command ensures the development of the institutional base for military education establishments and takes

care of their relevant organization, coordinates and controls the training and education process, as well as ensuring the preparation of professional military personnel in accordance with international standards.

J-7 – Military Education and Combat Readiness Department of the General Staff within its competence:

- Increases the proficiency level and NATO compatibility of the Georgian Armed Forces, works out policy and future plans, develops military education, combat training, experience sharing and doctrine development systems;
- Develops policies, plans, requirements and standards for professional military education Courses, works out professional development policies and programs for officers and NCOs and monitors their enforcement;
- Conducts planning, coordination and also periodically monitors the implementation of commander level and specialized military education courses for officers and NCOs;
- Works out doctrine development policies;
- Reviews the doctrine development process to ensure correspondence with established priorities, to achieve the NATO interoperability it ensures the application of doctrines developed within educational establishments and the appropriate structural units;
- Works out policy for development of experience sharing (lessons learned) system;
- Improves doctrines and training, develops and introduces the combat experience sharing system.

The main institutions providing military education and combat training for the Georgian Armed Forces are: The Davit Aghmashenebeli National Defense Academy of Georgia (NDA), The **Military Lyceum of Junkers**,

training Center “Krtsanisi,” NCO School, Sachkhere Mountain Training School, and The Akhaltsikhe Armor Training Center.

The National Defense Academy developed a new vision for the development of the Academy, according to which its mission is “to provide officers with the academic and military education of the highest standard, to strengthen their moral and professional integrity and help in developing the leadership skills”. The Vision’s aim is “to support the defence transformation process, as well as ensure academic and professional development of the civilian and military personnel working within MoD and the security sector through using the modern teaching methods and technologies”. There are already some changes in structure of the teaching programs – during the first two years, all Junkers go through the same basic courses and choosing the concrete field of specialization takes place only in the third year. The academy has increased the variety of courses and instilled the interactive teaching practices. The shares of the independent learning activities conducted by students, as well as of non-military subjects have also increased in its educational programs. However, the shortage of qualified lecturers and financial resources still remains one of the most significant problems.

The following main educational institutions/programs operate within the National Defense Academy: Bachelor’s Degree Education Program, Command and General Staff College, and Officers’ Career Courses.

The Bachelor Degree Education Programs accept applicants below the age of 24 who have a full secondary (pre-college) education. The Bachelor’s Degrees in Management and IT are granted after successful graduation from the program. The bachelor’s degree programs last for four years.

The Command and General Staff College includes the Command and General Staff School and the School of Advance Defense Studies.

The Command and General Staff School provides a secondary military education at the battalion commander and brigade staff officer level. Passing these courses is mandatory for military personnel who plan to continue studies in the School of Advance Defense Studies. The following modules are included in the **Command and General Staff School** courses:

- Leadership and Governance;
- Basics of Combat;
- Battalion Level Operations;
- Brigade Level Operations;
- Land Forces Operations;
- Unconventional Operations;
- Defense and Security Studies;
- Military History and Theory;
- Training Management.

The School of Advance Defense Studies provides a strategic and operational level education for officers of the Georgian Armed Forces and partner countries. Civilian students are also allowed to continue their studies in the School of Advance Defense Studies. The School offers master's degree programs in which the art of combat is a compulsory subject only for military servicemen. At the moment, the School is in the formation stage, and within its frames the following educational modules are planned for activation:

- Defense Analysis;
- European security studies;

- Defense resources management;
- Cyber security.

The School of Advance Defense Studies helps to deepen theoretical knowledge and to enable the acquisition of additional practical experience, and offers the study of defense and security capabilities on operational and strategic levels to future leaders, staff officers, various specialists working for the Georgian Armed Forces and the representatives of security services of other countries.

Career Courses for Officers are conducted in the following institutions training officers: Captain Career School, School of Basic Training for Junior Officers, School of Basic Training for Aviation and Air Defense Officers, School of Training for Military Medical Officers.

The Cadets Military Lyceum is located in Kutaisi and offers a three-year educational program. The Lyceum accepts students from secondary educational institutions that have successfully passed the basic study stage (9th grade).

The learning process is conducted in accordance with the national study plan of the Ministry of Education and Science. The additional military programs, which, along with the subjects envisaged by the secondary educational programs, include intensive physical training, military activities, history, and IT studies.

The NCO (Non-Commissioned Officer) School provides various NCO training courses. Currently, the NCO School is in the process of transformation and is being relocated.

The Sachkhere Mountain Training School was established in 2006. Various types of mountain training courses are conducted at the School for military officers of Georgia and partner countries.

The Armor Training Center was established on July 1, 2009, on the base of the Armor Training Course in Akhaltsikhe. The Center offers the following training courses: Armor Technician Training Course; Infantry Combat Vehicle, Armored Personnel Carrier and Multi-purpose Light-armored Towing Vehicle Crew Training courses.

National Training Center “Krtsanisi” is subordinated to the Training and Military Education Command of the General Staff. Various training and preparation programs are conducted in the Center for raising the qualification of military personnel, including basic training for young soldiers, training courses and other special programs conducted to prepare personnel for participation in peacekeeping operations.

Development of the military training and educational system is quite a laborious, comprehensive and lengthy process. It necessitates the mobilization of the relevant human and financial resources. Lacking these, it is necessary to prioritize the directions of development of this system, as well as ensure adequate planning and systematic implementation.

It is essential to identify those deficiencies and capability deficits which hinder the most and, in many ways, the building and sustainable development of the armed forces. After identifying these main deficiencies and capability deficits, a relevant long-term plan- the so-called Master Plan -should be elaborated which, to be viable, must be based on the available and forecasted future capacities of the human and financial resources.

INSTITUTIONALIZATION OF THE CIVIL ENGAGEMENT MECHANISMS

The MoD has accumulated a good cooperation experience with civil society. Firstly, one should mention the collaboration with the Council on Defense and Security Matters. Since 2006, the MoD has conducted meetings with members of the Council on the actual topics of the defense sector, during which the relevant issues were discussed and information provided, as well as views exchanged.

This cooperation format gradually extended to include regular meetings with the MoD, together with the members of the above Council, various local experts working on defense issues, as well as members of organizations protecting the human rights of the military servicemen. This cooperation format allowed the engagement of the Civic Sector in the process of development of important strategic and agency level documents of the defense and security sector, such as the National Threat Assessment Document, Strategic Defense Review, and Minister's Vision Document.

In past years the above cooperation format was neglected and its utilization stalled. The current Minister for Defense, Irakli Alasania, initiated the creation of the new format of cooperation with civil society. The three following working groups were formed: Defense Transformation Group, NATO Integration and International Operations Group, and Transparency and Human Rights Group. The openness of the MoD's new administration brought the adequate results and several meetings have already been conducted on important topics related to the defense sector.

Apart from commending the above-mentioned progress, it should also be noted that the engagement of civil society in the process of development of important guiding documents of the defense sector is

not sufficiently ensured. While the discussions, though incomplete, were conducted on the draft of the Strategic Defense Review Document within one of the above working groups, despite established practice, the civil sector was not able to participate in the development of the Minister's Vision Document, which resulted in significant deterioration of the quality of this document.

Stemming from the existing reality and current needs, it would be desirable to institutionalize the work of the above working groups which first of all could be done by, for example, determining the regularity of working group meetings, and developing the mechanisms for identification and inclusion of issues in the agenda of these meetings. It would also be useful to determine a list of the important strategic and agency level documents, within the development and implementation monitoring process of which civil society will be engaged.

5.2. Ministry of Internal Affairs (MIA)

5.2.1. Overview

After regaining its independence in 1991, Georgia established the National Security System, in which the MIA had always played not only a key role, but become the major source of power on which the political leadership of the country relied. In all variations of the MIA system which were established in Georgia from the time of President Shevardnadze, continuing with President Saakashvili, and ending with the current ruling coalition (the Gamsakhurdia rule can be discounted, as it was too weak

and short-lived to establish any system), the MIA played an increasingly important role and in many ways was a guardian of the ruling political party's political power.

In the Shevardnadze period, the MIA managed to become a major actor in the state security system. However, it failed to provide its basic and most important service – public safety. Extreme corruption and the ineffectiveness of the law enforcement system supported the strengthening of the “Thieves in Law” Institute, created during the USSR and affiliated with the Soviet secret services. This criminal establishment was a pretty powerful player in the country and, step by step, it became the alternative justice provider and managed to forge a partnership with corrupt police officials. Overall, during the Shevardnadze period (1993-2003), society was extremely dissatisfied with the police, considering it an ineffective and totally corrupt institution. The majority of the population at the time would have hesitated to contact the police even if such a need arose. Additionally, the MIA had inherited elements of the Soviet system, such as Interior troops – the Soviet model of a paramilitary anti-riot force – making the structures of the MIA incompatible with the elements of democratic control.

Bad governance, a soviet type security system, a high criminal level, and rampant corruption made the life of ordinary citizens very difficult, and inspired the mass protests against the government.

After the 2004 elections, the Saakashvili government conducted a major reform of the MIA. He disbanded most of the old corrupt and ineffective police departments and put a new system in place. Within a relatively short time (2-3 years), the reform efforts brought positive results, including the creation of a modern and well-equipped police service that was able to deliver basic police services. These changes dramatically improved public safety in Georgia.

The police, especially the Patrol Police Department, gained unprec-

edented trust and support in public. Additionally, the State conducted an aggressive, and in the opinion of some experts, brutal campaign against criminal organizations and their leaders, resulting in the almost complete defeat of these criminal circles and drastic improvement of the criminal situation in Georgia.

At the same time, Interior Troops were disbanded from the MIA, and its paramilitary functions were transferred to the Ministry of Defense. However, there were a number of changes made to further strengthen and increase the competencies of the MIA.

The Border Guard Department was disbanded and subordinated to the Ministry of the Interior as Border Police, which was a questionable decision considering the number of serious threats of paramilitary nature next to the Georgian border. The Ministry of State Security responsible for counter-intelligence activities inside Georgia was canceled, and its functions transferred to the Ministry of the Interior, making it the largest and by far the most powerful agency in modern Georgian history.

Adding the new functions raised questions regarding democratic control and transparency, which was a major concern for human watch groups and activists during the Saakashvili period and remains so today. In addition, there is the question regarding the MIA's ability to effectively manage such a large portfolio. Studies confirm that there is no evidence of the existence of any tools for effective management and planning in the MIA. Some components of the MIA, such as patrol police, were seen as very effective and popular structures that provided public safety measures, while large number of cases of power abuses and human right violations, some of which were politically motivated, were committed by MIA's Constitutional Security Department and Special Operations Department (KUD and SOD in Georgian), as have been reported by international organizations, human right activists, media and foreign governments.

The current ruling party, Georgian Dream Coalition, made a number of statements regarding the need for reform of the MIA prior to and shortly after coming to power. In most cases these were calls to dismantle the monstrous structure of the MIA, which makes democratic control of the agency very difficult, even in the case of the existence of political will.

However, no steps have been taken towards reforming the agency other than the name changes of some departments (mostly unpopular ones, like KUD and SOD) within the ministry. The MIA continues to be an extremely large and ill-governed organization, which makes it very hard to ensure its democratic control and transparency, and the conduction of a successful reformation aimed at improving its efficiency and proper management.

5.2.2. Functional and Structural Analysis.

Currently, the MIA is a major law enforcement agency of the country. Among the functions of the Minister of Interior are: ensuring public order and citizen safety, reduction of the number of crimes and offences, protection of human rights in compliance with democratic standards, ensuring road safety, ensuring boarder security, prevention and management of emergencies, management of migration, provision of counter-intelligence and investigation services; and fighting against illegal drug trafficking and addiction, human trafficking, corruption, terrorism, and cybercrime.

Under the present structure, the Minister of Internal Affairs has five deputies which are appointed by the Minister. Each of the deputies is responsible for the structural units subordinated to them. From 2004, the Minister of Interior had a civilian political position, however the current minister is a police colonel.

The Ministry consists of 26 departments:

- Administration
- General Inspection
- Financial-Economic department
- Personnel Main Division
- Expert-Forensic Main Division
- Information-Analytical Department
- Operative-Technical Department
- Counter-intelligence Department
- Central Criminal Police Department
- Patrol Police Department
- National Central Bureau of INTERPOL in Georgia
- Special and Emergency Measures Center
 - ♦ Special Emergency Situations Management Department
 - ♦ Administration
 - ♦ Special Tasks Department
 - ♦ Special Operations Department
 - ♦ Strategic Pipeline Protection Department o Strategic Facilities Protection Department o Armament Division
 - ♦ Mobilization Division
- State Security Agency
- Reforms and Development Department
- Anti-corruption Agency
- Counter-terrorist Center
- International Relations Department
- Human Rights and Monitoring Main Division

There are also eleven regional agencies:

- Main Division of Abkhazia Autonomous Republic

- Main Division of Adjara Autonomous Republic
- Tbilisi Main Division
- Mtskheta-Mtianeti Regional Main Division
- Shida Kartli Regional Main Division
- Kvemo Kartli Regional Main Division
- Kakheti Regional Main Division
- Samtske-Javakheti Regional Main Division
- Imereti, Racha-Lechkhumi and Kvemo Svaneti Regional Main Division
- Guria Regional Main Division
- Samegrelo-Zemo Svaneti Regional Main Division

The following six legal entities of public law operating under the Ministry have approximately 35, 000 employees:

- Academy of the MIA
- Security Police
- Healthcare Service of the MIA
- State Material Reserves Department
- Service Agency of the MIA
- 112

MINISTER

DEPUTY
MINISTERS

DEPUTY MINISTERS	REGIONAL AGENCIES	SUBORDINATE STATE AGENCIES	LEPLS
Office of the Minister	Main Division of Abkhazia Autonomous Republic	Border Police of Georgia	Academy of the MoA
Administration (Department)	Main Division of Adjara Autonomous Republic		Security Police
General Inspection (Department)	Tbilisi Main Division		Healthcare Service of the MoA
Financial-Economic (Department)	Mtskheta-Mtianeti Regional Main Division		State Material Reserves Department
Personnel Main Division	Shida Kartli Regional Main Division		Service Agency of the MoA
Expert-Forensic Main Division	Kvemo Kartli Regional Main Division		112
Information-Analytical (Department)	Kakheti Regional Main Division		
Operative-Technical (Department)	Samtskhe-Javakheti Regional Main Division		
Counterintelligence (Department)	Samtskhe-Javakheti Regional Main Division		
Central Criminal Police (Department)	Guria Regional Main Division		
Patrol Police (Department)	Samegrelo-ZemoSvaneti Regional Main Division		
National Central Bureau of INTERPOL in Georgia			
Special and Emergency Measures Center			
Reforms and Development Agency (Department)			
State Security Agency (Department)			
Anti-corruption Agency (Department)			
Counterterrorist Center (Department)			
International Relations (Department)			
Human Rights and Monitoring Main Division			

Under the present structure, the Ministry of the Interior has five major functions which are discharged by independent management, separate agencies or even ministries:

- Public Safety and Security
- Crisis management
- Counter-Intelligence
- Management and Security
- Investigation

5.2.2.1. Public Safety and security

Public safety is probably the most important function of the Ministry of the Interior. It has been the most successfully reformed component of the MIA. As a result, Georgia has witnessed the dramatic decrease of a crime rate and also the dramatic increase of public support and trust towards the police. Today, there are two major departments responsible for public safety and security: the Patrol Police Department and the Criminal Police Department. The Georgian Patrol Police is the State agency serving the public which, by strict observation of the applicable laws, ensures the freedom and security of each citizen. The police is accountable to the public. With the purpose of maintaining peace, public order and security, the police discharge its functions in cooperation with civil society. The main tasks of patrol police are:

- Implementation of legal and organizational-technical measures to regulate road traffic;
- Carrying out the relevant measures to prevent and avoid traffic accidents;
- Protection of public order in locations of car accidents, disasters, fires, natural calamities and other emergency situations;
- Prevention and exposure of the crime or any illegal action, as

well as conduct of investigative activities, over the illegal actions revealed at border checkpoints;

- Restriction or suspension of the road traffic in compliance with the basis and rules envisaged by the legislation of Georgia;
- Protection of the state border regime at border checkpoints, inspection of civilians at border checkpoints, also the fulfillment of other requirements envisaged by the legislation on migration and the legal status of foreigners;
- Conducting operational-search activities in order to prevent and expose crimes or illegal actions; and proceedings of administrative violations exposed at border checkpoints.

5.2.2.2. Crisis Management

The Special and Emergency Measures Center is responsible for crisis management. The Special and Emergency Measures Center:

- Ensures protection of safety, sovereignty and territorial integrity of the state, conventional borders, public order, objects of the Ministry, strategic pipeline crossing the territory of Georgia;
- Provides operative units of the Ministry with the relevant resources;
- Prevents emergency situations throughout the country;
- Controls legal shipments of nuclear and radioactive substances, reveals, avoids and prevents any illegal transportation of the mentioned substances, and participates in the implementation of security measures.

5.2.2.3. Counter-Intelligence

The Counter-intelligence Department and State Security Agency are responsible for intelligence and counter-intelligence. The State Security Agency forecasts threats to the country, identifies and responds to crime

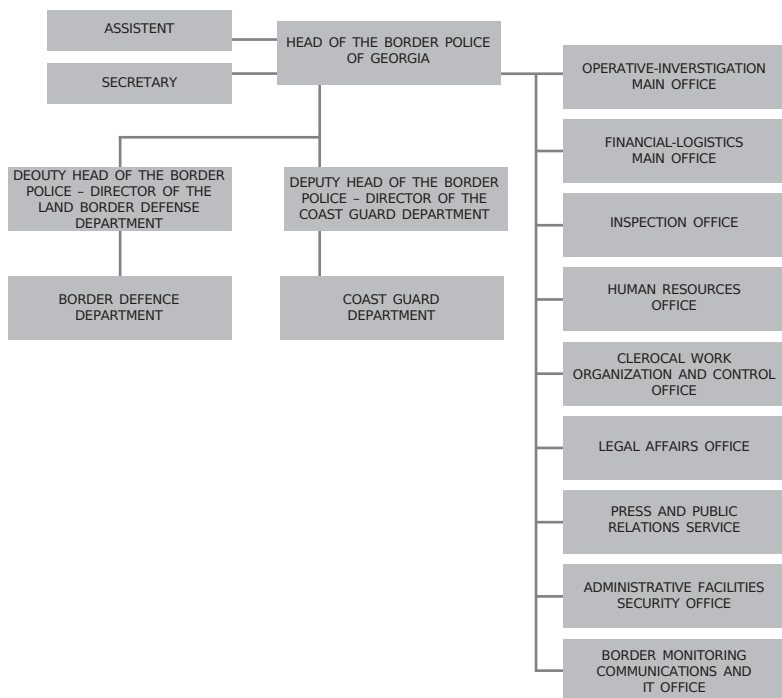
against the state, and ensures protection of the constitutional order from forcible substitution with a non-constitutional one. The main tasks of the Counter-intelligence Department are to ensure national security by collecting information, and detecting and neutralizing foreign spy networks. There are no available open sources regarding structure, personnel and major functions of these two departments. Every bit of information regarding the Counter-intelligence Department and State Security Agency are strictly classified.

5.2.2.4. Border management and Security

The major responsible body is the Border Police (BP). BP is responsible for border management and security. The main tasks of the Border Police include:

- Protection of the State border of Georgia as well as protection of territorial integrity, inviolability of the state border, state, citizens and safety of their property along with other state agencies;
- Ensuring, in accordance with the legislation of Georgia, the prevention and exposure of illegal acts at the State border, border line, border area, maritime of Georgia and vessels under the jurisdiction of Georgia;
- Coordinating the operations of border security entities at border crossing points, determination of the place, time and consecution of migration, customs and other types of control in coordination with customs authority;
- Inspection of Georgian and foreign citizens at the Georgian border, carrying out of procedures set in the Law on The Legal Status of Foreigners;
- Securing the safety of navigation and vessel movement in the maritime space of Georgia;

- Investigation of maritime incidents within the scope of its competence;
- Protection and preservation of the environment and natural resources, and responding to contamination within the border line, border zone and in the maritime space of Georgia;
- Control and coordination of measures of protection and safety of international airports and seaports;
- Conducting search-and-rescue operations at sea, within the border line and in the border zone, in special cases – for the purpose of saving people's lives and property – throughout the entire territory of Georgia.



5.2.3. Policy Analyzes

STRATEGY FOR 2013

The MIA published the 2013 Development Strategy for the Ministry of Internal Affairs which was the first strategic document elaborated by the Ministry. The Strategy is an attempt to identify the weak areas of the MIA and to find the ways of improvement. The 2013 Strategy is based on four principles on which the activities of the MIA are based: legality, humanity, justice and transparency. The document covers the following issues:

- Reforming the system of the Ministry of Internal Affairs
- Ensuring public order and the security of citizens
- Ensuring road safety
- Ensuring border security
- Prevention and effective management of emergencies
- Effective management of migration
- Fighting against illegal drug trafficking and addiction
- Fighting against human trafficking
- Fighting against corruption
- Fighting against terrorism
- Fighting against cybercrime
- Providing quality service
- Improving the capabilities of the MIA Academy
- Deepening international cooperation

In the frames of the 2013 strategy, the MIA has identified a number of priorities which are vital for achieving further success in implementing measures for improving public safety and security in Georgia.

- The MIA will devote significant attention to improving the professional skills of the Ministry's personnel. They will undergo systematic trainings in relevant fields.
- The MIA structural units will be equipped, where possible, with modern equipment in order to effectively conduct crime prevention, and operational search and investigation activities. In order to strengthen security, it is important to increase the number of means of electronic surveillance.
- Special attention will be devoted to conducting interactive discussions and seminars at schools and other educational institutions on the causes of crime, threats, and their consequences. In order to avoid juvenile crime recurrence and consequent adult criminal career, relevant measures will be taken for re-socialization and reintegration into society.
- In order to enhance the effectiveness of the fight against human trafficking, the interrogation mechanisms will be refined. Strengthening of cooperation with partner states is also planned.
- The priorities for the MIA in the fight against corruption are: participation in improving the legislation and involvement in the improvement of human resources management in the public service.
- The MIA will strengthen border security in order to prevent the use of the Georgian territory by terrorists for transit purposes.
- In order to improve the fight against cybercrime, the MIA plans to establish a unit for the research of digital evidences. In order to improve the service quality, MIA priorities include increasing the compliance of the national driving and registration licenses with international standards. Regulations for use of vehicles by disabled individuals will also be refined.

THE MIA HAS ALSO IDENTIFIED THE FOLLOWING MAJOR CHALLENGES:

- Low percentage rate of solved crime cases against property
- Domestic violence, including violence committed against women and juveniles
- Necessity for improving MIA personnel qualifications
- Necessity for updating material-technical means of the MIA
- Insufficient safety measures on high-risk road sections
- Lack of patrol police crews and modern equipment
- Lack of automated road traffic control systems
- Underdeveloped infrastructure of the border sectors
- Border control technical infrastructure
- Militarization of occupied territories
- Increasing flow of passengers and cargo
- Hazardous sites in the region
- Illicit transit of radioactive materials
- Lack of common approach on CBRN issues
- Non-existence of a unified interagency system for monitoring migration flows
- Non-existence of mechanisms for detention and deportation of illegal migrants
- Non-existence of shelters for readmitted persons
- Incomplete database on persons involved in illegal drug circulation
- Necessity for refining the mechanisms for human trafficking investigation
- “Elite corruption”
- Threat of illegal arms proliferation
- Vulnerability of information systems
- Inability to identify the location of a call initiator

Based on both objectives and challenges, the MIA has identified and listed its priorities for 2013. However, very basic analysis identifies them as long term goals. Most of the listed objectives would require a focused long-term policy approach including assessment of required resources, timetable, action plan and more.

The very fact of listing them as priorities for 2013 shows the willingness of the MIA to address these issues, although it seems that the Ministry lacks institutions which would properly identify strategic objectives, translate them to policy goals and add to them with budget and timelines.

5.2.4. Organizational Analysis

5.2.4.1. Management

MIA has very weak tools of organizational management. In most cases it employs a daily routine management system and has very little or no institutional capacity for a medium or long term approach.

5.2.4.2. Decision Making

The decision-making process in the MIA is very centralized, still employing the old Soviet model in which decisions and guidelines move in a top-down system. This system considers the format of staff meetings, which are the norm for routine and short term discussions. These meetings are held weekly and also called during emergency situations. They are held at the top level and are mirrored by most agency units, including the ones in the regions.

There is no evidence of the existence of any collective decision-making body based on the needs of organizational management and development such as budgeting, planning, strategic education, or procurement. There

are no expert level working groups supporting these decision-making bodies with proper information and analyzes. Moreover, there is no basic management team (board of directors) model, which would include top career appointees and ensure any kind of opinion exchange on development and management issues.

A major problem is a lack of vision and intent to start creating any type of decision-making model, whose work would go beyond the needs of daily business or crisis management.

5.2.4.3. Financial Management and Budget

The Financial-Logistical Department is responsible for budget management in the MIA. Unfortunately, there is no data available regarding the detailed missions of the department. Evidently, this department replicates the monstrously large nature of the MIA itself, holding together three major functions: finances, procurement, and logistics.

There is no evidence of the existence of any form of process in support of short or medium term visions in any of these three areas. Holding these functions together creates questions on accountability and suggests the lack of even short term goals oriented towards effective management. There is no MIA budget available for public viewing on its official web page.

5.2.4.4. Human Resources Management

The HR main division is responsible for routine HR administration. It has the basic functions of appointing, dismissing or moving people within the MIA. It is also responsible for the technical support process of institutional reorganization, which would translate to creating a table of personnel (positions, gradation, pay grades) for new units. The HR division makes sure the MIA does not exceed the authorized number of personnel.

There are no available conceptual documents defining the MIA's HR strategy, policy on required promotion, retention or retirement. There are no guidelines or procedures for the working (tactical) level management of the HR division, nor is there a functioning ranking system in the MIA.

Officially, ranks are awarded in accordance with length of service. There is also a minimum position requirement which a person should occupy at the moment of their promotion; for example, the minimum position requirement for Colonel is considered to be the position of Head of Section. Yet even these very basic rules are frequently not implemented.

5.2.4.5. Education

The main educational institution for the MIA is the Police Academy. Prior to 2004, the Academy was a full academic institution with a four year bachelor course and with a faculty of post graduate studies. It also offered a number of shorter courses for new civilian recruits with university degrees.

After 2004, the MIA implemented an educational model similar to that of the US system. The Georgian Police Academy provides short-term educational courses (up to 3-4 months) for new recruits and also has short training opportunities for advanced career options. In 2013, the MIA declared its intention to run a master's degree program. The Police Academy went through accreditation procedures and obtained a license from the Ministry of Education and Science. However, it is unclear what goal this post graduate program pursues (there is no change regarding the undergraduate program).

The main issue continues to be the lack of education strategy and policy in the MIA- there are no action plans supporting sustained development of education programs, be it short courses or advanced studies providing post graduate degrees.

5.2.4.6. Policy and Planning

The Reforms and Development Agency is a unit responsible for policy and planning. However, there are no available policy documents or action plans confirming the existence of a policy and planning process in the MIA.

The first acknowledged success of the Reform Agency is an open-conceptual document- the 2013 Strategy. However, this is in reality a simple list of goals and priorities, which has no Supporting budget, timelines or any implementation action plans. Simply put, it is a document intended for public relation needs and has very little use in the policy and planning process.

The establishment of a policy and planning process, or even the basic capacity for it, requires human and financial resources and a proper institutional set up. From 1991 to present day, there was no or very little evidence of the institutionalization of the policy development and planning process in the MIA. This trend evidently continues still.

5.2.5. Recent changes in the MIA

In August 2012, the MIA created the Policy and Planning Department as a first attempt to institutionalize management of the MIA and to create actions plans for enhancing NATO and EU co-operation. However, in November 2012, this department was abolished. Instead, the new administration of the MIA established the Reforms and Development Agency, the main functions of which are the elaboration of strategic documents, and the development of policies and plans of the Ministry, with major emphasis on reforms.

However, reforms made in the agency during 2013 are mostly related with name changes. The Constitutional Security Department and the Special Operational Department were abolished and the Anti-corruption

Agency and the State Security Agency were established in their stead.

The new State Security Agency analyzes threats to national security, and identifies and responds to crimes against the state, which were also functions of the former Constitutional Security Department.

The “new” old function of the Anti-corruption Agency is fighting against corruption and malfeasance by officials, which was also the function of the Special Operational Department.

The MIA also suspected that SODI was duplicating the criminal police functions and after its abolishment, the newly established Central Criminal Police Department began to carry out those functions. The latter is also entitled to implement operational-searching and investigative activities as stipulated by Georgian legislation.

A major challenge is that the MIA remains overarching- it is an omnipotent agency with four major functions (public safety, boarder guard, counter-intelligence, and crisis management), all of which have very little connection and can be successfully separated. During the election campaign Georgian Dream (GD), including one of the current deputy ministers of interior, were advocating for and recommending² the division of the MIA in order to ensure increased transparency, democratization and accountability in areas related to current MIA functions. It was also included in the electoral program of the GD coalition.

There are number of different possible options and models regarding the division of the MIA. How to divide functions without damaging the functionality of the MIA is one of the greatest concerns. As of the end of 2013, there are no clear plans or vision regarding the future shape of the MIA.

² http://www.partiebi.ge/index.php?thematic_id=5&party_1_id=17&lang=geo. Presentation by Mr. Izoria. Georgian Development Research Institute workshop May 29, 2012 http://www.slideshare.net/gdri_ge/skema11?qid=a78d0525-4d01-4f65-80ec-c69815d-1c436&v=qf1&b=&from_search=2

The large and overextended structure of the MIA makes democratic control very hard to exercise (even if political will is present) and makes successful management of the agency a great challenge. Despite the initial success in accomplishing the task of securing public safety (as a result of the reformation started in 2004), the above problems continue to raise legitimate questions in Georgia. Civil society was particularly concerned with a lack of democratic control during the years 2004-2012 and there is still fear that this problem will remain unsolved in the future. From an expert point of view, there is no evidence of any current or planned effort to increase the effectiveness of the management and to take care of the structural chaos which exists in the MIA today.

The simplest and most evident solution would be to divide the MIA into two or more parts which, while not a solution in itself, will make it easier to overcome the current challenges. There are a number of considerations on how to transform the current MIA, keeping in mind the problems of democratic control and management. The main argument against a transformation or reform of the MIA has been and still is that the current structure is an efficient means for ensuring public safety and national security. However, there is no clear explanation presented or any evidence suggested which justifies the current structure of the MIA.

The ways and means on how to transform the MIA may differ, and obviously there is no single correct solution. Based on the findings of this study, the major challenge for the Ministry, and for the national defense and security sector at large, will be the separation of the four major functions that the MIA holds under one roof – Public Safety, Counter-Intelligence, Crisis Management and Border Security Management. A successful solution to this issue should involve the significant improvement of transparency and democratic control, and avoid harming those reforms that have already proved successful within the MIA.

6. CIVIL/DEMOCRATIC CONTROL OVER THE AGENCIES OF THE SECURITY SECTOR. PARLIAMENTARY OVERSIGHT OVER THE SECURITY AND DEFENSE SECTOR

6.1. Introduction

On October 28, 2013, Georgian citizens elected a new President. Based on the election, the new Constitution and the consequent legal acts entered into their full legal force. From a Presidential system of governance, Georgia moved to a mixed system of governance. According to the new Constitutional model, Parliament's authority has been comparatively enhanced, while the President's authorities and responsibilities have been reduced; all of which significantly influence the rules and procedures regulating governance of the institutions of security and defense as well as the power and capacity of Parliament to oversight the executive.

The present chapter provides assessment of the power of the Georgian Parliament to oversight the security and defense institutions, and describes how its rights and responsibilities are exercised and comply with internationally recognized norms on parliamentary control in democratic states. The chapter also provides general recommendations for the improvement of the effectiveness and efficiency of parliamentary oversight over the security and defense institutions in Georgia.

6.2. Oversight Power of Parliament over the Security Sector

The new constitutional changes have limited the President's executive powers. Furthermore, the President's role and influence over Parliament's performance has been diminished; namely, in this regard, one of the rules among the new constitutional changes eliminates the President's right to initiate a law in Parliament; moreover, constitution makes it procedurally more complex for the President to dismiss Parliament.

Parliament has significant authority on declaring martial law. According to the Constitution, if the President declares martial law then he/she must present it to Parliament for approval within 48 hours. If Parliament does not support the decision, the decision is revoked. Parliament can also reject the President's decision to prolong the effect of the martial law on the Georgian territory; as a result the martial law shall be annulled.

Parliament's authority similarly refers to the declaration of state of emergency. According to the Constitutional provisions, without the approval of Parliament, the President's decree regarding a declaration of state of emergency, or its prolongation, will not enter into force. The President's decree regarding a declaration or prolongation of state of emergency, that itself needs to be counter-assigned by the Prime Minister, shall be presented to Parliament for approval within 48 hours.

Parliament is authorized to control the decision of the Executive Government with regards to use of military forces. In the case of a state of emergency, the military forces cannot be used without Parliament's approval, in order to avoid exercising of excessive power by state authorities during the state of emergency. Thus, the Constitution and the Law on The State of Emergency recognize the supreme right of Parliament

regarding the declaration or abolition of the state of emergency, and ensure that the decisions made by the President are approved by Parliament after consignment by the Prime Minister.

The articles of the effective Law on The National Security Council refer to Parliament's involvement in the work of the National Security Council. According to the law, the Speaker of Parliament is authorized to attend the meetings of the Security Council; and Parliament then approves or discusses the documents adopted by the Security Council.

During the period of 2005-2012, the National Security Council presented the National Security Concept to Parliament on two occasions. They were approved in 2005 and 2011. According to legislation, the National Security Council is responsible for working out the proposal regarding the strength of the armed forces and presenting it to Parliament for approval. The named proposal shall be presented to Parliament at the end of each fiscal year together with the budget. Parliament's approval is necessary to activate the law on the strength of military contingent personnel. Last year the draft law on the strength of military personnel was presented to Parliament on December 24, 2013 and was approved by Parliament after a short discussion.

Currently, a number of amendments to the Law on the National Security Council (initiated on September 29, 2013) have been submitted to Parliament for approval. These amendments, for the shall reflect the new constitutional changes, according to which the spheres of the President's competences have been limited and mainly bound to foreign relations and defense (though the President remains the Commander-in-Chief of the military forces).

The amendments to the laws related to the security and defense fields made during the period of 2012-2013 were aimed at harmonization of legislation with the constitutional changes. Parliament kept the author-

ity to oversight the decision of the Executive Government on issues of state secrets, as well as on decisions related to participation of Georgian military forces in peacekeeping operations, call ups for military service, and military reserve.

The Constitution and the corresponding laws provide that the Georgian Parliament has wide authority to control and oversight the executive institutions. Namely, Parliament's authority over the Executive Government is as follows:

- To adopt laws about the functioning of the security and defense institutions;
- To determine the priorities of the country's domestic, foreign and defense policies;
- To ratify, denounce or abolish the international treaties and agreements of military nature;
- To approve the government structure, governmental programs, and the action plan;
- To request submission of the existing evaluations of the implementation of the government programs and organize parliamentary hearings on the issue;
- To discuss and approve the state budget, including the defense expenditures;
- To approve the state military strategy and the concept of development of military forces;
- To approve the military oath;
- To approve the quantity of military forces;
- To approve the President's Decree regarding the deployment or withdrawal of foreign military forces from the territory of Georgia;
- To approve the President's Decree regarding the declaration of martial law or state of emergency;

- To approve the President's decision regarding the use of military forces during a state of emergency or martial law.

It should be mentioned that Parliament does not participate formally in the appointment/dismissal of high ranking military authorities of the Ministry of Defense. According to the constitutional amendments, the Minister of Defense is appointed by the Prime Minister with the President's approval. Parliament grants its vote of confidence to the entire government. The Deputy Ministers of Defense are appointed by the Prime Minister on the Minister's recommendation and with the President's approval.

Furthermore, according to parliamentary regulations, a Member of Parliament is authorized to:

1. Participate with a deliberative vote in the work of state and local self-governance institutions and raise the issues of breaching the Georgian laws and other regulatory acts;
2. Inquire after institutions accountable to Parliament, to the Georgian government, the members of the Georgian government, the head of any self-governance institution of any level, and receive and assess the feedback;
3. A group of 10 MPs, or a parliamentary faction, is entitled to put the question to an accountable institution which is then obliged to respond at a plenary meeting. The questions will be answered on the last Friday of each month, during the governmental hour in Parliament. An official authority can refuse to answer the question only if the information to be provided contains a state secret.
4. Propose to the relevant institutions the inspection of implementation of Georgian laws and other normative acts according to the established rules.
5. Enjoy free access to all state institutions other than the exceptions

provided by Georgian legislation; meet with other officials as set forth in the Georgian Constitution.

6. Personally take part in discussions on issues raised by him/her.
7. Based on hearing, inspection and examination of the information, elaborate and submit relevant recommendations to the Government of Georgia regarding the evident facts of breach of Georgian Constitution and legislation.

Consequently, all official authorities appointed following Parliament's approval are obliged, whenever requested, to attend meetings of the parliamentary committee, investigation and other temporary commission, majority or minority and present relevant documents, conclusions and other materials and provide an explanation about the topic under consideration.

Not less than one third of the parliament members have the right to institute legal proceedings of impeachment of the President of Georgia, the Head of the Supreme Court of Georgia, the General Auditor, and a member of the National Bank Council.

6.3. Parliamentary Oversight over the Institutions of Security and Defense Sector: Plenary Session

Based upon decisions made at a plenary session, Parliament is entitled to carry out an effective oversight of the institutions of the security and defense sector. Approval of the budget on an annual basis is one of the significant means of implementing supervisory power by Parliament. The Law on the Annual Budget is adopted by Parliament in Georgia.

However, the latter is not entitled to make changes on its own to the plan of expenditure submitted by the Government. Since Government submits the draft budget to Parliament, the latter can only approve or refuse it fully. The Members of Parliament cannot require amendment of the specific articles in the budget as they do not have the access to more detailed estimates of the budget, nor do they participate in other phases of resource management, in budget preparation or its review within the Government. According to the Constitution, the Government is obliged to submit the next year draft budget not later than three months before the end of the budget year, together with the report on implementation of the current year budget. Making amendments to the budget without the Government's agreement is inadmissible. If Parliament fails to adopt the state budget two months after the beginning of the new budget year, this will be understood as posing a vote of no-confidence towards the Government. If, until the expiration of the respective period, Parliament does not manage to impose a vote of no-confidence to the government, then the President shall dismiss Parliament within three days of the end of the respective period and set a special election. Thus, when the majority of Parliament Members shares the Government's view about the governance of the country and grants it with a vote of confidence, Parliament is forced to support the budget submitted by the Government blindly based only upon the discussion of the general parameters.

Additionally, Parliament's ability to conduct monitoring during the implementation of the budget is limited. According to the Constitution, Parliament is entitled to control the legality of spending of state budget resources by the Government and, whenever the contraventions are present, to address the President of Georgia. Georgian Parliament is entitled to take control of the spending of the approved budget only after the budget is implemented. It can be controlled *post factum* by the State Audit Office.

The Auditor General is elected by Parliament and she/he is responsible for submitting a report on state budget spending each year. Pursuant to the legislation, Georgian Parliament is entitled to require from the State Audit Office a report on evaluation of the purposefulness and feasibility of the expenditure made by the law enforcement and military institutions. Twice a year, the State Audit Office presents to Parliament a report regarding the Statement of Government of Georgia, and once a year, and no later than the 1st of June, following the reporting year, the State Audit Office presents to Parliament a report about its own performance. After reviewing the report of the State Audit Office, Parliament adopts the relevant decision. When drafting the Action Plan, the State Audit Office shall consider the proposals by parliament committees, investigation and other temporary commissions; based on the applications by Parliament and the temporary investigation commissions it conducts an unplanned audit and inspection; it is authorized, and whenever requested to do so, it is responsible for submitting the results of the audit and inspection to Parliament and the temporary investigation commission. Parliament holds the legal instruments to examine the performance of the State Audit Office; in particular, it is examined by the temporary commission established by Parliament no later than the 1st of December.

Aiming at monitoring **the field of protection of human rights** in Georgia, Parliament elects the Public Defender for a five year period. Once a year, in March, the Public Defender submits a report to Parliament regarding the status of protection of human rights and freedom in the country, Furthermore, once a year s/he submits a special report, against which Parliament adopts a decision or a resolution.

Georgia does not have a military ombudsman and therefore it is the responsibility of the Office of the Public Defender to respond to the facts of violation of human rights. The office representatives are entitled to

enter military units at any time and investigate the facts or obtain information about the violation of human rights. The state authorities shall support the Public Defender and his/her representatives to fulfill their duties and responsibilities. The Public Defender has the right to provide recommendations on legislative initiative to the legislators in order to improve the defects; also, s/he can recommend to the state institutions to initiate the cases of criminal and constitutional violations in court. S/he can also address the President or Parliament with regards to the current facts of violation of human rights.

The Public Defender is authorized to facilitate transparency of the security sector through the presentation of an annual report or to address the public through the media. However, according to the Law on The Public Defender, such decisions are not mandatory.

Additionally, Georgian Parliament is entitled to look through and discuss at the parliamentary session **the strategic documents of security policy**, such as the National Security Concept, review of defense or a white book containing the long term plans of defense development (law on defense). Such documents are developed based on the threat assessment document. According to the Constitution in force since 2013, the liability to develop the latter document has been passed on to the Government (prior to this, the document was approved by presidential decree).

The documents prepared by the Executive Government and other decisions made by Parliament, are usually subject to parliamentary debates; as a result Parliament influences the development of future policies, and enhances civic support to the document and its democratic legitimacy. According to effective legislation, in Georgia the mentioned debates are broadcasted live. The second TV channel of the Public Broadcaster is legally bound to reflect current political processes without editorial

intervention.³ The functionality of this channel ensures a high level of transparency and builds up public awareness as well as increasing public interest towards politics.

Among other authorities of Parliament, the Law on Participation of Georgian military troops in Peacekeeping Missions should be mentioned, adopted in 1999 and last amended in September 2013. According to the law, the decision about the participation of Georgian military troops in foreign peacekeeping operations should be discussed and ratified by Parliament.

The Executive Branch of the Government is responsible for identifying which troops will be sent abroad and in what quantity, where they will be located, what their goals will be and what rules and condition they will pursue. First of all, the Ministry of Foreign Affairs and the Ministry of Defense make a decision about sending the military troops in order to fulfill the country's international commitment. After that, the Government adopts a decision that needs Parliament's approval to enter into legal force. However, Parliament is not authorized to recall military troops. Once a year, the Ministers of Foreign Affairs and Defense must present a report to Parliament regarding the participation of Georgian military troops in international peacekeeping missions.

Furthermore, there is no effective law in Georgia regulating location and movement of foreign military troops on the Georgian territory. However, Parliament's consent is necessary to enable the Georgian Government to grant permission of movement or transit of foreign military troops through Georgian territory.

³ It started renewed broadcasting on March 1, 2013 and covers 65% of the population. The channel is transmitted through the internet. It has live broadcasting for 15 hours per day. Due to the special form of broadcasting, the channel is liable for the content pursuant to Article 16 (a)(b)(e)(f)(j) and (m) of the "Law on Broadcasting".

Finally, the significance of the laws that define the destination and Code of Conduct of the authorities and staff, as well as of the personnel working in their subordinate military or police forces and the authority of other state enterprises and institutions subordinated to the mentioned bodies of the Ministry of Defense and the Ministry of Internal Affairs is important in order to implement parliamentary oversight.

According to the Georgian Law on Defense, Georgian Parliament is entitled to approve the Concept of National Security and determine the national policy in the field of defense; it is also entitled to approve the military doctrine of Georgia and the concept of development of military forces, approve the quantity of military troops and the military oath. Parliament is also entitled to discuss and approve the defense budget together with the state budget; to ratify, denounce or abolish international treaties and conventions related to the military sphere; to undertake control over the development of Georgian Armed Forces and over the implementation of Georgian legislation.

The Law on Defense also defines the destination of the Georgian Armed Forces. According to the law, the aim of the military forces is to defend the independence, sovereignty, and territorial integrity of Georgia, as well as to fulfill the international liabilities assumed by the country. Consequently, the law defines that use of military forces during a state of emergency or for fulfilling the international liabilities is inadmissible without the consent of Parliament. Additionally, the law clearly indicates that the parliamentary committee for defense and security exercises oversight over the field of defense.

The Law on Police (adopted on October 4, 2013) aims to ensure public security and order and its effect upon the performance of persons with special and military rank employed within the law enforcement system. The law regulates possibilities of the parliamentary oversight upon the

key principles of police performance, legal bases of the organizational setting, and the rule of police conduct.

Furthermore, it is noteworthy that the new law adopted in 2013 comparatively weakens parliamentary control over the police and generally over the performance of the Ministry of Internal Affairs. Apart from the previous version of the law, since the law of 2013 entered into its legal force, the text of police oath is approved only by the Minister of Internal Affairs and not by Parliament (as was provided in the law of 1993). Moreover, the law does not indicate the parliamentary committee that shall fulfill the parliamentary control over the performance of a policeman or other staff of the Ministry of Internal Affairs. From the point of view of parliamentary oversight, similar ambiguity is met in the Law on The Public Safety Service, which determines the goals, authority, structure and code of conduct of the departments of the Ministry of Internal Affairs and other structural units thereof. The law does not clarify the forms of parliamentary control over the public safety service. The legislation indicates that the control is defined by Georgian legislation; however, it does not highlight the committee that would be responsible for parliamentary oversight. Furthermore, it should be mentioned that the law allows the employees of the Ministry of Internal Affairs to participate in efforts ensuring security of international events; namely, the law defines that public security may be provided in accordance with the decision made by the Prime Minister of Georgia or Parliament (according to amendments made on 6 September 2013).

According to the Law on The Intelligence Service, the official oversight over the functioning of the Georgian intelligence system is carried out by the Prime Minister of Georgia, whereas the parliamentary control is carried out through the parliamentary committee of defense and security.

The institutions constituting the country's intelligence system are: The Georgian Intelligence service, intelligence sub-units of the Ministry of Defense, and the intelligence units subordinated to the system of the Ministry of Internal Affairs. The given interpretation of the law causes inconvenience. The law on the intelligence service entitles the parliamentary committee of defense and security to carry out parliamentary supervision of the intelligence units subordinated to the system of the Ministry of Internal Affairs; however, the law on public security does not clarify which committee has the oversight power.

6.4. Practices of Parliamentary Oversight: Plenary Session

As experience shows, over the recent years Parliament has been taking an active role in the process of drafting laws, initiating and discussing the bills concerning the regulation of the performance of the Executive Government and state policy in the field of security and defense. Here can be outlined some further challenging spheres, such as:

Among the strategic documents of the national level approved by Parliament, the National Security Concept shall be highlighted; Parliament approved its last version on December 23, 2011. The previous version of the Concept was approved in 2005. Both documents were elaborated through public discussions and parliamentary debates. In 2012 the new political force took power. It is expected that the reflection of views and priorities of the new power in the strategic documents would enhance the legitimacy of the documents. However, the current parliament has not yet

expressed its attitude toward the effective strategic documents, nor has it initiated the development of new ones. As the experiences of western countries show, in some of the NATO member countries the period of elaboration of the strategic documents is regulated by legislation and the process is connected to the beginning of a new political cycle. It would be reasonable for Georgian Parliament to make known its attitude toward the described issue.

Parliament carries out control of the budget and, in particular, control of budget spending by the institutions of the security system through the State Audit Office. The latter should provide full assessment of the purposefulness and feasibility of the expenditure made by the law enforcement and military institutions.

To date, the performance of the State Audit Office concerning the control of the security and defense institutions cannot be regarded as effective as only a few departments or offices under the security institutions were audited during the last nine years (2004-2014).

One of the reasons for this is that the Government has only been carrying out the audit of the State Audit Office, pursuant to international standards, since 2010. Before, the control did not comply with international standards and the audit was performed (under the name of the Chamber of Control) according to practice established in the old Soviet system, i.e. it was not unknown to involve corruptive and political bargains. Consequently, the effectiveness and purposefulness, as well as the evaluation of honesty of the findings of the financial audits made before 2010 cannot be univocal but controversial.

Since 2010, the reform of the state audit system has been taking place; the office development strategy of 2010-2012 has been worked out aiming at establishment of modern and independent audit services to the public sector, pursuant to international standards and enjoying

public confidence. Among the other activities planned was an audit of the management of the security sphere, and the spending of budget resources by the institutions therein.

According to the existing regulations, the State Audit Office draws out its auditory priorities against a list of the public interests at the beginning of each year. The mentioned document concerns the criteria for large amounts of state budget or for the performance of qualitatively high risk profile. For example, the official report of the State Audit Office of 2010, among the priority field for 2011 stated the inspection of financial management of the public order and defense spheres.

In 2012 the State Audit Office published the findings of an audit of different departments and offices of the Ministry of Internal Affairs; for example, the report of 2012 reflected the financial reports of the following institutions of the Ministry of Internal Affairs: Act of Financial Audit of the Service Agency (2008-2009), Act of Financial Audit of the Border Police (2008-2010), and the general Act of Financial and Compliance Audit of the Ministry of Internal Affairs (2010). Besides this, the financial report of 2013 reflects the Financial and Compliance Audit Report of the Department of Constitutional Security (MIA) for the period of Jan 1, 2011- Nov. 30, 2012; the financial report of the security police of 2008-2009, and the Act of Financial and Compliance Audit of the central office of the Ministry of Internal Affairs for the period Jan. 1, 2011- Sept. 30, 2012.

Furthermore, during the period of 2011- 2013 the State Audit Office could not manage to fulfill all its planned activities as the audit of the defense institution was reflected neither in the reports of 2011 and 2012, nor in 2012. In order to respond to a similar situation, Parliament is entitled, if such interest exists, to require from the State Audit Office the undertaking of an audit of the security structures and the consequent

submission of the findings to the parliamentary session. However, such interest from Parliament has not been observed to date.

Considering the local practices in Georgia, it could be concluded that Parliament should become more insistent towards the State Audit Office in order to fulfill the parliamentary oversight and require from it to conduct, within its competence and in compliance with the international norms of audit, the annual planned audit of the financing of on-going programs in the spheres of Public Safety and Defense, outside the political context. Parliament holds the legal means of control of the Audit Office, therefore, there is no reason why Parliament should not require an inspection of a specific institution whenever necessary from the State Audit Office, as the performance of the said Office can be controlled by a temporary parliamentary commission.

Moreover, when working out its action plan the State Audit Office should consider proposals by parliamentary committees, investigative and other temporary commissions, appeals of Parliament and the temporary investigation commission, based on which the State Audit Office would perform extraordinary audits and inspections.

The oversight function of Parliament is also impeded by a legal norm which states that it is not liable to discuss the professional experience, qualifications, personal characteristics and skills of candidates proposed to separate governmental positions. As a rule, Parliament approves the Government proposed by the Prime Minister without debate. The above-mentioned shows that the degree of Parliament's independence and freedom is limited and is influenced by the Executive Government.

Connected to the entering into force of the new constitutional changes after the parliamentary elections, about 42 legislative changes were implemented in the spheres of security and defense during 2012-2013. Specific steps shall be further taken by Parliament in order to improve

the effective legislation and to align it with Western democratic norms.

Parliament has the potential to strengthen the oversight mechanisms from the one hand through amending the legislation, and from the other, through cooperation with NGOs that actively work on the development of the National Security Policy as well as participate in the monitoring of the implementation and establishment of Western standards within the management of Georgian institutions of defense and security.

In order to share the Western experience and activate the oversight performance of Georgian parliamentarians, it is vital that Members of Georgian Parliament participate in international or regional inter-parliament assemblies. According to the Rule of Parliament, parliamentary delegations mainly consist of the members of the majority and minority. As defined by the law, their number is determined according to proportional quotas. Additionally, in Georgian Parliament there are some “friends’ groups “aiming to support cooperation with the parliaments of other countries.” Such formats are important also in facilitating the cooperation with parliaments of countries that have limited diplomatic relations with the Executive Government of Georgia.

Generally, the effective oversight of the security and defense sectors by Parliament needs expertise and additional resources from within. Usually, such resources are quite limited even in the parliaments of Western democratic countries. Therefore, it is recognized that Parliament shall receive alternative information first of all from civil society, from international think-tanks and from inter-parliamentary forums. It is also important that the skills and awareness of Parliament staff are improved; and the research resources, libraries and scientific research connections, as well as conference formats, are improved and strengthened.

Similar efforts are in effect to help national parliaments, and among them the Georgian Parliament, to solve the key problem of the fact that

the information gained by Parliament is mainly originated by the government or military servants. The information provided by them creates a well-known “relation between the parliament, government and military servants dependent on asymmetric information.” Therefore, parliaments of all countries shall take into consideration the mentioned threat and, in order to improve the effectiveness of oversight, it shall activate its cooperation with the organizations from the NGO sector, research institutes and educational centers, as well as with international organizations, forums and the initiatives facilitating inter-parliamentary cooperation.

6.5. Parliamentary Oversight: Committees

6.5.1. Legislative Overview

According to Georgian legislation (rules of parliament, committee regulations) the parliamentary committees are charged with ensuring the Government’s transparency and accountability. The Committee on Defense and Security working in the security sector holds several important instruments to carry out parliamentary oversight over the sector.

One of the most important rights of the Committee is the right to put forward legal initiatives. Through such initiatives, the Committee can facilitate the development of Parliament’s oversight means and their regulation with the key principles of the performance of the security sector, as well as with the legal base of organizational structure of separate institutions and their codes of conduct.

The Committee is also entitled to study the performance of executive

institutions on the basis of a preliminarily approved plan or sufficient petition, and whenever necessary, to claim materials from, and present the findings to, Parliament for further discussion.

The authorities and members of Government accountable to Parliament, when requested by the Committee, shall submit relevant documents and findings within a time-frame established by the Committee. (The information containing the state secret is submitted to the Group of Confidence consisting of parliamentarians – members of the Committee of Security and Defense, whose Code of Conduct is determined by the Law on The Group of Confidence). Furthermore, it is important that the Member of Government, or authority appointed by Parliament, is entitled, and whenever requested so, is liable to attend committee meetings, answer questions in a meeting, and present a report on accomplishments. The Committee shall arrange hearings upon the authority's request.

According to parliamentary rules, the Parliamentary Committee consists of not less than 10 Members of Parliament. The periods of committee meetings are determined by the Committee itself; however, during the session periods no less than two meetings shall take place (in the periods between sessions, the Committee is not liable to call a meeting). The meeting is valid if it is attended by the majority of the committee members; the decisions are made by the majority votes of those present. If the votes are divided equally, than the Chairman's vote prevails. The law determines the rule of dissemination of information about the committee meeting: the information about the committee meeting shall be uploaded onto the website one day prior to the fixed date; the committee meeting is a public event (however in special circumstances the committee holds closed meetings).

The committee meeting reviews draft laws and other issues based on which it adopts (1) a recommendation, (2) a conclusion, and (3) a

proposal that shall be presented to the parliamentary bureau, plenary meeting of Parliament.

The following four parliamentary committees have the opportunity to control the governmental institutions of the security sector, they are:

1. Financial – Budgetary Committee;
2. Committee of Defense and Security;
3. Committee of Juridical Issues;
4. Committee of Human Rights and Civic Integration.

The Financial – Budgetary Committee reviews the draft budget, works out a conclusion, and organizes discussions and agreement with other committees and fractions. Additionally, it is responsible for controlling the implementation of laws and other decisions adopted by Parliament, as well as controlling the performance of accountable institutions and the government and, whenever necessary, submit a sufficient conclusion to Parliament. The committee members shall inform the public about the situation existing in the financial – budgetary sphere, plans for future and implemented activities.

The law grants the most discretionary power of parliamentary control to **the Committee of Defense and Security**. This committee is entitled to put forward the legislative initiatives in the sphere of security and defense and it elaborates the findings and proposals regarding the legislative initiatives submitted to Parliament. Additionally, according to the laws on defense and on intelligence, the Ministry of Defense and the Department of Intelligence are accountable to the Committee. The Committee of Defense and Security participates in the development of the defense policy, controls the implementation of activities pursuant to the law and policy document, and whenever necessary, holds the means to address Parliament.

The most effective form of parliamentary oversight is the budgetary control of the security and defense structures. For this purpose, pursuant to the Rule of Parliament, the **Group of Confidence** is created within the Committee of Defense and Security, which aims at the budgetary control of special programs and secret activities of executive institutions. It should be mentioned that Georgian law on the Group of Confidence refers to the budgetary control of the Executive Government in all institutions that carry out special programs and undercover activities. From the Georgian Government the Ministry of Defense and the Department of Intelligence fall under the oversight of the Group of Confidence.

According to the Law on The Intelligence Office, the parliamentary control of the Intelligence Office is carried out by the Georgian Parliament's Committee of Defense and Security. Control of the spending of resources allocated from the state budget to finance the Office's undercover activities and special programs is carried out in compliance with the Georgian Law on Group of Confidence.

The Group of Confidence consists of five members and is chaired by the Chairman of the parliamentary Committee of Defense and Security. Among other members of the Group of Confidence are: one member of the majority, one single-mandate delegate proposed by the Members of Parliament, two members of the minority or members of the fraction which is not affiliated to the majority.

The heads of governmental institutions shall submit annual reports about accomplished and ongoing activities to the Group of Confidence, and, upon the request of the Group, they must provide requested materials within a fixed time-frame. The Group of Confidence is entitled to present its findings either to the Financial-Budgetary Committee of Parliament, or, if it considers that the relevant body is violating the law, it proposes to the Georgian Parliament to create a temporary investigation committee,

or addresses in writing the Prime Minister requesting the removal of state security classification from the information.

Before 2008, the Law on The Group of Confidence required the members of the group to meet not less than once a month. However, according to the amendment adopted in 2008, the Group of Confidence should meet not less than once every six months; a change which significantly affected the intensity of the work of the Group. Moreover, the members of the Group of Confidence are entitled to call a meeting if the majority of its members support the idea. Here it should be mentioned that the meetings of the Group of Confidence are closed and that all issues falling under the group's competence and reviewed in the plenary session are accompanied with the resolution of the Group of Confidence.

In 2013-2014 additional changes were incorporated into the Law on The Group of Confidence. According to the legislative act initiated in 2014, Parliament adopted a new rule for the setting up of the Group of Confidence – after presenting the proposed candidates of group membership, Georgian Parliament will acknowledge the composition of the group. Additionally, the personnel of the Group of Confidence will not be composed only of the personnel of the Parliamentary Committee of Security and Defense.

The amendments of June 2013 were initiated by the Ministry of Defense. According to the law, the Ministry of Defense assumes liability to present to the Group of Confidence information regarding planned secret state procurement if the expected price of the goods or services exceeds two million GEL, and the expected price of construction works exceeds four million GEL. This formally increased the oversight capabilities of the Group of Confidence.

The responsibility of the **Legal Issues Committee** covers control over the security sector through several aspects. The **Legal Issues Committee**

is one of the key committees in Parliament that prepares the laws on constitutional law, administrative law, and procedural or international laws for the sittings; it ensures legislative regulation of organization and performance of the constitutional court, general courts, prosecutor's office, the bar, and the law enforcement agencies; reviews the draft state budget, and draws a conclusion. With these commitments the **Legal Issues Committee** is actively involved in the legislative work regulating the law enforcement agencies as well as the institutions of defense and intelligence.

Further, it should be mentioned that the responsibilities of the Legal Issues Committee include submitting proposals regarding the ratification, denunciation or annulment of international treaties and conventions to Parliament. This considers a reviewing of the global and regional, multilateral and bilateral agreements conducted by the Executive Government regarding national security issues, among them the cooperation agreements with NATO and the EU.

The juridical committee also takes care of the harmonization of Georgian legislation with the norms of international law- no less important in terms of the establishment of democratic governance in the security sector. The mentioned activities refer to the compatibility of the laws on: defense, public order and security service, martial law and reserve system, military service and alternative military service, import/export of arms and goods with dual purpose etc. with the western norms. The **Legal Issues Committee** is also responsible for studying the performance of the executive department on request/petition, and whenever necessary it presents the findings to Parliament.

It should be mentioned that the law does not define the specific bodies that fall under the oversight of the **Legal Issues Committee**.

The power of **the Committee of Human Rights and Civic Inte-**

gration is similarly important with regard to controlling the institutions of the security system. The Committee's responsibilities include timely respond to issues related to the political or social advocacy of military servants, reservists and veterans, as well as to public security measures, and responding to the facts of violation of human rights while exercising of power by the police or other law enforcement agencies.

According to the Committee's statute, the Committee is immediately consulting with citizens, reviews and responds to letters and applications by natural and legal persons regarding issues falling under the Committee's competence.

In order to fulfill its oversight competences, the Committee is entitled to invite government members and authorities appointed by Parliament to a committee meeting and review their performance report. Whenever violations of law are detected, the Committee elaborates and sends relevant recommendations to the person under consideration and to the other bodies of the Executive Government; and it cooperates with civil and non-governmental organizations engaged in the human rights sector domestically or internationally.

Furthermore, carrying out democratic control over the armed forces is one of the mechanisms under the oversight conducted by the Public Defender's Office. The law grants the Committee of Human Rights and Civic Integration the power and responsibility for close cooperation with the Public Defender's Office as well as with the Ministry of Defense, and exchange of information with them.

6.5.2. Practices of Implementing the Oversight Power: Committees

The Constitution, the Rules of Parliament and statutes of the committees define the rules and regulations of performance of the parliamentary committee. Additionally, the review of committee performance shows that their duties and responsibilities has not been carried out effectively over the recent years. For example, the Committee of Defense and Security rarely held hearings and rarely invited top managers of defense and security institutions in order to examine their accountability. This experience shows that the parliamentary majority does not express interest in inviting their party leaders for hearings and, therefore, the requirement of minority members regarding invitation and hearing of the mentioned authorities is mostly ignored by the majority.

During the years 2004-2013, when the management authorities of the Ministry of Defense would visit Parliament and participate in committee hearings, the majority of members were less active to put questions even regarding the most urgent issues. The minority members were moderately critical too. Most of the parliamentary hearings are organized on the Executive Government's initiative and, consequently, the agenda is also designed by the Executive Government. Such practice cannot ensure the full accountability of the Executive Government.

For example, from 2007-2010, the Minister of Defense attended a meeting of the Committee of Defense and Security only once. In May, 2009, the Ministry of Defense hosted the committee meeting on ministry premises, where the discussion concerned the defense concept, the existing situation in occupied areas, and on-going processes in the Georgian army.

From 2010-2012, Parliament did not express any initiative to hold

hearings or invite the Minister of Defense, therefore, the Minister has not attended any of the committee meetings.

Despite the above-mentioned, there were periods in Parliament when the Committee of Defense and Security received regular information from the Ministry of Defense regarding the ongoing reforms in the defense sector. Only during 2005 did the Deputy Minister of Defense attend five committee meetings and take part in the review of different issues.

Also, in 2005-2006, open committee hearings took place regularly that aimed at reviewing the implementation process of draft laws and reforms. The open committee meetings were attended by military and civil staff, representatives of the civic sector, and journalists. However, in 2007 this practice changed and open committee hearings became very rare.

Today, the Committee of Defense and Security consists of thirteen members approved by Parliament. The committee has a Chairman – elected by the majority -and three deputy chairmen. One of the latter represents the opposition, and the other is an independent delegate.

The current composition of the Committee of Defense and Security unites members who have experience in the security sector, with the minority members working in the Committee of the previous parliament, too. The work of other members of the Committee was connected to either the Ministry of Defense or other structures of the Government. Therefore, generally, they are familiar with the security and defense sector, and in particular, with oversight over the named sector. The legislative base gives sufficient opportunities to Committee members to undertake effective control over the representatives of the Executive Government engaged in the security sector, however, there are several factors impeding this. The main problem is related to working out the budgetary law. In recent years, the Georgian Government has declared in several programmed documents that the launching of a planning, programming and budgeting

system was prioritized by the Government, yet it was not implemented. Changes at the legislative level are necessary to build up the budgetary law against the programmed budget.

Secondly, effective law cannot ensure the minimization of risks of misuse or abuse of power by the Executive Government, resulting in serious concern among society. For example, the Committee of Defense and Security does not have the power to monitor performance of the Ministry of Internal Affairs notwithstanding that in last two decades a number of facts of violation of human rights by the mentioned ministry were identified.

Recently revealed facts of power abuse and misconduct with regard to the collection and use of unlawful tapping and video recordings clearly shows the need for stronger and more institutionalized oversight over security sector agencies. These issues had never been discussed at the committee hearings. The divulgated facts themselves testify how important the effective oversight is over the Ministry of Internal Affairs by Parliament. There are some formal instruments for it, for example, the Committee's right regarding legislative initiative. More active and targeted use of such would give Parliament the power to strengthen parliamentary control over closed structures and make them more accountable.

The third factor impeding the implementation of parliamentary control refers to the role of the opposition within Parliament, as Georgian parliamentary tradition proves that the dominating political force holds not just a simple majority in Parliament, but the constitutional majority, too. In the previous Parliament the opposition was rather weakly represented, therefore the ruling force was never interested in organizing open hearings of government members. It was obvious that the Executive Government could influence the representatives of Parliament's majority members; for example, there were cases when a legislative initiative was proposed

by the Chairman of Procedural Committee but, during discussions it turned out that the proposed draft law breached the international norms and human rights on free movement; the Chairman said that he initiated the present draft law just formally and indeed it was the initiative of the Executive Government, namely of the Ministry of Internal Affairs.

The opportunity to perfectly carry out Parliament's authority is enhanced by the activities of the Group of Confidence.

The obligation of the Group of Confidence to hold meetings was rather frequent until 2008; meetings were held at least once a month. However, according to the amendments made to the law in 2008, the Group should meet at least once every six months. Consequently, based on the frequency of the meetings it could be assumed that since 2008 the intensity of the Group's performance has declined; yet such an assessment would not be true; the initiative regarding the increase of mandatory meetings may positively influence the degree of transparency and accountability of the Ministry of Defense to the Group of Confidence and generally, to Parliament. But, as recent experience shows, the work of the Group of Confidence itself in Parliament was never sufficiently effective. It became complicated to determine the composition of the Group of Confidence during the past decade and often the majority would not support the candidate proposed by the minority, thus impeding the functionality of the Group.

As another example, in the parliament of 2004-2008, when the composition of the Group of Confidence was specified as three members by law, Parliament could not manage to approve the Group's members because the majority did not support the opposition candidate. Also, the parliament of convocation of 2012, during the first year of its work, could not manage to select and set up the Group of Confidence for the same reason. Therefore, the issue of elaborating a legal norm came to

the agenda which would ensure the smooth performance of the duties and responsibilities of the Group of Confidence. In January 2014, an initiative was submitted to Parliament by the Council of Defense and Security according to which the candidates proposed as members of the Group of Confidence should be taken note of by Parliament instead of approval (see above). The mentioned norm is still a project and it is difficult to judge how effective the resulting Group set up will be in terms of control and oversight.

The meetings of the Group of Confidence are closed. Review of any issue at the plenary session of Parliament which falls under the Group's competence requires a conclusion by the Group of Confidence. Any member can call a meeting of the Group of Confidence if the meeting will be supported by the majority of the group members. Based on the mentioned norms, it is impossible that a member of the Group – a representative of Parliament's minority would request and ensure a review of the issues important from his/her point of view at the plenary session of Parliament. According to the norms effective for the Group of Confidence, it is absolutely impossible to present the initiative of a minority member of the Group to Parliament's plenary session on behalf of the Group of Confidence. This is a serious factor impeding the implementation of full parliamentary oversight.

6.6. Conclusions

In sum, the key provisions of Georgian legislation with regard to the implementation of democratic parliamentary control comply with inter-

nationally recognized norms. Parliament enjoys the power to review and approve the Government's policy, review and approve the laws and the rule of budget spending, approve the country's participation in international missions, initiate laws and impeachment, and grant or refuse the vote of confidence to the Government. What's more, Georgian Parliament is less involved in the process of appointment/dismissal of high ranking officials of the Security Sector; similarly, Parliament is less capable of influencing the design of the budget, and is less informed about the detailed budget and the expected expenditures planned for the security sector.

Additionally, Parliament cannot take control over the performance of the Ministry of Internal Affairs and, due to the insufficient independence of the Group of Confidence's power the control over the closed programs of the security and defense structures is limited too.

7. CIVIL SOCIETY ENGAGEMENT — MECHANISMS AND PRACTICES

This chapter reviews the activities of the Georgian civic sector (non-governmental) organizations engaged in the security sector and the elaboration of recommendations that will strengthen the engagement of civil society in the reforms of the security sector, and enhance public monitoring over the Georgian security sector.

7.1. General Background

The civil society has key role in ensuring the transparency and accountability of the state institutions responsible for the security sector. The NGOs (or, as frequently called – the NGOs) represent the immediate link between the society and state institutions, by means of which the civil society controls the performance of the state institutions in the field of security and influences the policy development of the named structures.

Performance of NGOs is beneficial not only for the civil society, but for the state structures responsible for the security sector too. The NGOs can help them to fill the gaps and correct shortcomings in their work and raise the sustainability and effectiveness of their structures. In other

words, the whole society benefits from the performance of the NGOs.

The NGOs are extremely important in the countries in transition. In other words, in the countries where the checks and balances mechanisms of the political system are not sufficiently developed and the governmental agencies do not have capacity for self-development.

Georgia still belongs to the group of transitional countries. Therefore, civic engagement in the reforms of the Georgian security sector is vital. Much remains to be done to strengthen and improve the transparency and accountability of the country's Security Sector. This will support the further consolidation of Georgian democracy, and facilitate and speed up Georgia's EU and NATO integration process. Strengthening the oversight role of Georgian civil society over the security sector is one of the most important factors towards enhancing the transparency of the sector and its accountability to society.

7.2. Overview of activities of NGOs involved in the Security Sector

7.2.1. NGOs and Independent Experts Working in the field of Security

A number of NGOs, Think Tanks and independent experts work in the field of Security Policy. Among them are: the Civil Council for Defense and Security (new name: "Institute for Euro-Atlantic Cooperation"), Atlantic Council of Georgia, Foundation for Strategic and International Studies, Association "Justice and Liberty," International Center for Geo-political

Studies, Association of Military Journalists, Georgian Security Research Center, and the International and Security Research Center. Additionally, separate projects in the field of security are implemented by: the International Center for Conflicts and Negotiations, Transparency International, Caucasian Institute of Peace, Democracy and Development, Georgian Institute of Public Administration and so on. The independent experts are also active in the security field by commenting on and analyzing the processes on-going in the security sector through the media and academic publications.

7.2.2. Cooperation between the NGOs working in the field of Security and the Governmental Structures

Regular and institutionalized relations between the NGOs working in the field of security and governmental agencies started from 2004-2005. In this period, public advisory councils were created in the governmental structures and NGOs initiated the establishment of a civil council on defense and security, the meetings of which were regularly attended by representatives of the governmental structures. Since then, various meetings have been held aiming to discuss ongoing and strategic issues in the field of security between NGOs and governmental structures. NGOs and Think Tanks are involved in the analysis of strategic documents worked out by the Government as well as in the analysis of particular issues of the Security Policy. Through the joint efforts of NGOs and the governmental structures, a regular international conference on security issues was established. A number of Georgian organizations specifically focused on human rights issues and the strengthening of transparency of expenditures in the security sector.

Currently, the relations between NGOs and the governmental structures are regulated by different memorandums and agreements. The first such memorandum was signed in 2007 which defined the sphere of cooperation between NGOs and the Ministry of Defense. The next memorandum was signed in 2009 which specified a list of documents on which the Ministry of Defense would work jointly with NGOs. Recently, another memorandum was signed between NGOs and the Defense and Security Committee of Parliament.

7.2.3. Discussions and dialogue between NGOs and Official Structures

In recent years hundreds of meetings have been held to discuss actual and strategic issues in the field of security between NGOs and official structures. Such meetings were attended by the representatives of the Ministry of Defense (including the Minister, the deputy ministers and the heads of departments), as well as the representatives of the National Security Council, and the Defense and Security Committee of Parliament. Apart from organizations focusing on security policy issues, at some of these meetings NGOs working on the issues of human rights protection and on transparency of public funds have also participated.

During the meetings a wide range of topics were discussed. Among the most discussed topics were: legal conditions of military servants and the legislation regulating the defense sphere, specific issues of reforming the security sector, the National Security Concept, the National Military Strategy, the Strategic Defense Review (SDR), Reforms in military education, HR management, the Planning, Programming and Budgeting System (PPBS), the National Guard and Military Reserve Service Concepts,

access to public information, the transparency of the defense budget, Defense planning documents, challenges regarding NATO integration, and the participation of the Georgian Armed Forces in ISAF operations in Afghanistan.

Representatives of Georgian civil society took an active part in the meetings of the Public Advisory Councils working with the State Minister for European and Euro-Atlantic Integration. The meetings enabled civil society to monitor the Georgian Government's efforts in terms of integration into European and Euro-Atlantic structures, and in turn informed the Government about the views and expectations of Georgian society. A similar council worked within in the Ministry of Defense. Meetings of the public advisory councils in the Ministry of Defense and the Office of the State Minister are held regularly.

7.2.4. Georgia's Defense and Security Conference

In 2005 the Ministry of Defense, in cooperation with NGOs, working in the field of Security Policy and established the "Georgian Conference on Defense and Security." At the initial stage the conference was focused on the ongoing issues of defense reform and was of a relatively small scope. After a few years, as a result of efforts of NGOs and the Ministry of Defense, it became one of the most important international forums and annually attracts about 250 participants. The forum reviews key issues of Georgian defense and security as well as the regional and international problems of security, and is fully funded by the Government of Georgia. High ranking officials from the Georgian government and international officials and experts participate in the forums regularly. The forum is unique in the Caucasus region and the post-soviet area.

7.2.5. Participation of NGOs in the elaboration of the official document in the Sphere of Defense and Security and an Independent Analysis of the Security Sector

Georgian Think Tanks and NGOs took an active part in the elaboration of the National Security Concept of Georgia (in 2005 and 2011); the National Military Strategy (2005, 2009); the Minister's Vision Documents of the MOD;

The Concept of the National Guards, some chapters of Defense Strategic Review, and others. The Think tanks and NGOs were also involved in the preparation of analytical papers for the Threat Assessment Document.

NGOs prepared independent reports, amongst which are: "Development of the Security and Defense Policy;" "Decision making Process in the Georgian Defense Sphere;" "Review of the legislation-facilitating civil democratic control over the Georgian military armed forces;" "Parliamentary control of the security sector: mechanisms and practices;" "About Georgian laws regulating the sphere of defense;" "About protection of military servants' human rights in Georgian legislation and practices." Some of these reports had been published in international media.

7.2.6. Trainings

Recently, Georgian Think Tanks, NGOs and Academic institutions have organized, conducted and been actively involved in a number of training courses for the personnel of the MOD. In most cases, these trainings were focused on strategic studies, security policy and international relations, as well as on the development of analytical skills.

7.2.7. Monitoring

NGOs also took part in the monitoring of armed forces. Namely, they regularly inspected the wards of preliminary detention pre-trial detention cells at the military units and studied the procedures implemented against the detainees. The inspections were carried out in all military units located in Georgia. The mentioned program played an important role in decreasing breach of military servants' rights and violations against them.

Recently, the Ministry of Defense expressed its interest in involving NGOs in the work of tender (procurement) commissions, as observers. NGOs took part in a number of such commission meetings related to the procurement of food supply for military units, and other logistics.

7.2.8. Public outreach and International Cooperation

Representatives of NGOs and independent experts focusing on security issues regularly communicate with the mass-media, participating in national and local radio and TV programs and debates. Such activities facilitate the introduction of NGO expertise to wider society and the raising of public awareness on issues of Security Policy.

NGOs and experts working in the field of security take an active part in different international forums and networks in the frameworks of partnership with NATO, European neighborhood policy and more. Many NGOs implement their projects through partnership with Western and international organizations.

7.3. Analysis of the Activities of NGOs working in the Security Sector

Below is an attempt to analyze the activities of NGOs involved in the security sector in order to assess the degree of engagement of Georgian civil society in the Security Sector. Namely, based on the activities of Georgian NGOs in analyzing the following: a) To what extent do the NGOs' typical activities (meetings/information exchange, independent analysis, trainings, monitoring and advocacy) cover the agencies of the Security Sector; which official agencies are covered by these activities and which agencies are not; b) How regular/sustainable are the mentioned activities of Georgian NGOs; c) How open are the relations between NGOs and state structures – i.e. to what extent do these relations cover all key and problematic issues.

7.3.1. Regular Meetings

One of the best developed forms of interaction between NGOs and governmental agencies are regular meetings. The Ministry of Defense (in the frameworks of “civil council,” “advisory council,” and “defense conference”) and State Minister of European and Euro-Atlantic Integration (“civil council”) have a format of regular meetings with the representatives of NGOs. Recently, several meetings were held with the Defense and Security Committee of Parliament in the format of “civil council” (experts' meeting) as well as within the committee hearings on various issues. Other institutions – the Ministry of Internal Affairs and the Ministry of Foreign Affairs have not developed the practice or

format of dialogue with NGOs and so Think Tanks focusing on security issues did not occur.

With regards to the regularity and sustainability of meetings, the most effective agencies are the Ministry of Defense, the Office of the State Minister of European and Euro-Atlantic Integration, the National Security Council, and the Defense and Security Committee of Parliament. At the same time, it is difficult to assess the institutional character of such meetings even with regards to these institutions. These meetings often lack regularity and sometimes depend on the political situation.

7.3.2. Expertise and Independent Analysis

NGOs were most actively involved in analyzing and reviewing the documents of the Ministry of Defense; they were also involved in reviewing the documents of the National Security Council e.g. the National Security Concept as well as documents of the Defense and Security Committee of Parliament. The Ministry of Internal Affairs and the Ministry of Foreign Affairs never involved NGOs or Think Tanks in review or expertise regarding strategic documents.

Regularity/sustainability of expertise: independent expertise was most regularly used by the Ministry of Defense. Namely, almost all strategic and policy documents elaborated by the ministry had been sent out to NGOs for evaluation (Military Defense Strategy, Defense Strategic Review, the Minister's Vision, etc.). Furthermore, the Ministry of Defense was the first that referred to a so-called outsourcing. In particular, in 2010, it was the first to outsource the preparation of analytical materials to NGOs. The National Security Council involved NGOs in the processes of development of the National Security Concept in 2005 and 2011.

7.3.3. Trainings

Participation of official structures in trainings: recently, NGOs have conducted multiple training sessions for the Ministry of Defense and the General Staff and in 2012 one training session took place for the Ministry of Internal Affairs.

Regularity and sustainability: Despite the fact that multiple training sessions were conducted in the Ministry of Defense, the trainings did not have a continuous development character.

Topics: The trainings for the Ministry of Defense were on diplomacy and security policy, and the single course conducted for the Ministry of Internal Affairs was on security policy issues. There is lack of specific training courses on democratic reforms or democratic governance of the security sector.

7.3.4. Monitoring

In the recent period the only monitoring of official structures that was conducted by NGOs was with regards to the Ministry of Defense. None of the monitoring programs concerning the other official structures have been implemented by NGOs focusing on the security sector.

With regard to intensity and regularity of monitoring, the above-mentioned was conducted over the last few years. Presently, to our knowledge, there are no projects being conducted by Georgian NGOs specially designed to monitor any security sector agency.

Field of monitoring (topics): The monitoring project mentioned above was aimed at the protection of rights of military servants and the detection of the facts of violation of their rights. It should be mentioned that,

to our knowledge, no other type of monitoring has been conducted by Georgian NGOs.

7.3.5. Advocacy

Currently, advocacy, as one of the important forms of NGO activity, is practically missing from the priorities of the NGOs working in the sphere of the security sector. The fact that such advocacy is not observed in the security sphere does not mean that there is no need for it. Various topics connected to the democratic transformation of the Georgian defense and security sectors certainly necessitates more efforts from NGOs.

7.4. Conclusions

Review of activities of Georgian NGOs engaged in the security sector shows that despite the active communication of NGOs with governmental structures, it is quite early to talk about a full-fledged civil engagement in the security sector. The reasons are as follows:

7.4.1. Institutionalization and sustainability of cooperation of NGOs with the State Structures.

The existing relations of NGOs with governmental agencies are not sufficiently institutionalized. This means that these relations mostly depend

upon the goodwill of the personalities rather than upon the norms that should be followed.

The existence of civic advisory councils with official structures is a step forward on the way to institutionalization of cooperation with NGOs. The work of the councils is regulated by internal statutes that oblige official structures to ensure the effective functionality of the advisory councils. Recently, several memoranda were signed between the official structures and NGOs that also positively contributed to the institutionalization of cooperation between them. The contracts implemented with NGOs regarding different services (trainings, analytical work, etc.) also aimed at strengthening institutionalization.

7.4.2. Problem of Engagement of Some Governmental Structures in Cooperation with NGOs

The existing cooperation of NGOs with agencies of the Security Sector does not cover a significant part of the institutions responsible for the security sphere. Namely, while the cooperation of NGOs with the Ministry of Defense is comparatively intensive and has diverse forms (meetings, expertise, trainings, monitoring, joint conferences, etc.) and many similarities in intensiveness of cooperation are found with the National Security Council, the Defense and Security Committee of Parliament and the Office of State Minister of European and Euro-Atlantic Integration, the same cannot be said with regard to other institutions such as: the Ministry of Internal Affairs, the Ministry of Foreign Affairs, and others. Naturally, such a situation significantly weakens civic engagement in the security sector and the mechanisms of civil oversight over the security sector. Therefore, in the frames of democratic transformation of the security

sector, the above-listed institutions should ensure further improvement of cooperation with NGOs.

7.4.3. Topics and Forms of Activities

There are fields of NGO activities in which Georgian NGOs could be more active, such as in advocacy of interests, rights of military servants, integration of former militaries, as well as raising public awareness with regard to integration into NATO and the democratic standards of the security sector.

The field of monitoring requires further development also, in order to cover not only the armed forces but also other institutions of the security sector.

7.4.4. Strengthening Civic Engagement

The civil advisory councils working with the official structures are effective instruments for informing civil society about the processes in the security sector. However, only the advisory councils cannot ensure valuable civic engagement. Further strengthening of an institutional base is required in order to achieve the full civic engagement of the NGOs, Think Tanks and Academia in the Security Sector.

Further development of policy and legislation to better engage with civil society and to facilitate cooperation between governmental structures and NGOs would be beneficial for both sectors in order to strengthen the transparency and accountability of the Security Sector. Furthermore, independent expertise and research capacity Georgian Think Tanks, NGOs and Academia could be better utilized.

RECOMMENDATIONS FOR THE GEORGIAN SECURITY SECTOR

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1. Recommendations to Improve the National Security Architecture

Change of the constitutional model of governance raised a need to align the national security architecture with the new constitution. In creating a security system, its legal and institutional aspects must receive thorough conceptual consideration. The system must ensure the proper participation of key institutions of the security system – the President, the Cabinet and the Parliament in the decision-making process, as well as the division of responsibilities between them. The most important task in this process is the formation of a system that is fully consistent with the constitutional provisions and that guarantees effective policy planning, implementation, and crisis management on the one hand, and that ensures checks and balances and the involvement of relevant institutions on the other.

Recommendations:

1.1. Develop legislation to regulate the security policy planning and decision-making process. This legislation must conform to constitutional provisions and ensure participation by all relevant institutions. While the Organic Law of Georgia on the National Security Council (NSC) regulates the council's functions, a broader legislative act will bring coherence to the legislative framework regulating the security sector at large. This proposed legislation, the National Security Regulating Act, would define agencies' competencies, ensure proper checks and balances in the security sector and provide the basis for interagency coordination within a whole-of-government approach. Considerations of this approach include:

- (a) The act could establish a relevant legislative framework and fill gaps in security policy planning, drafting of strategic documents, interagency cooperation, crisis management and securing a policy response to emerging security challenges.
- (b) The act should, in accordance with constitutional provisions, ensure participation of all main institutions (such as the office of the president, the Cabinet and the parliament) in the security policy planning and decision-making process.
- (c) Adoption of such an act might require amendments to the existing legislative framework to bring greater consistency and coherence to the entire system.

1.2. Develop and refine the legal basis for a government security policy coordination office that is accountable to other government agencies. The recommendations developed during the first phase of the Atlantic Council of Georgia's security sector reform project emphasized the need to install professional staff within the government to coordinate security policy. The recommendations also suggested that

such a structure be based on and regulated by law, not executive order.

Although some of these recommendations have been adopted, institutional and legal controversies remain.

- (a) A government decree, not a law, has established the State Security and Crisis Management Council and its executive office, as well as the Crisis Management Operations Center. Subsequently, the government decided that the State Security and Crisis Management Council's activities and competences should be based on and regulated by law.
- (b) Georgia's parliament has, therefore, adopted amendments to national law on the government's structure, competences and conduct.
- (c) In addition to the package of draft legislation submitted to the parliament for review, the government drafted national security policy planning and coordination legislation that defines the authority and structure of the Security and Crisis Management Council, its executive office and its operations center.
- (d) This legislation, however, contains provisions that have constitutional and functional conflicts. The Security and Crisis Management Council is deemed a consultative or advisory body to the prime minister (PM), but makes decisions by a majority of votes.
- (e) It is controversial to grant control of the ministries and elective autonomous and municipal organs to a consultative body that has no constitutionally defined competence to make any decision. One task of the council staff, as defined by the draft legislation, is to control all security institutions (including the ministries of defense and internal affairs), as well as constitutionally independent bodies such as autonomous republics and elected authorities of local self-governance institutions (Article 21.h).
- (f) According to the constitution, the Cabinet of ministers is the decision-making body on issues related to national security. Establishment

of a consultative organ such as the State Security and Crisis Management Council within the Cabinet creates controversy.

- (g) Although responsibility for security policy coordination and crisis management – important components of the national security architecture – has been assigned to support decision-making and policy implementation for the Cabinet, appropriate legislation must address the issue of accountability as well as structural and functional issues of this institution.

1.3. Establish adequate mechanisms for cooperation between the NSC staff and the PM's office. Streamlining the national defense and security system requires adequate mechanisms for cooperation between the structural units of the National Security Council and the PM's office. Shared responsibility and authority on certain issues of national defense and security policy that fall within the scope of authority of both the president and the PM will contribute to more informed and qualified decision-making in the defense and security sectors.

1.4. Create a legal framework for institutional separation of police, special and military functions. The Ministry of Internal Affairs (MIA) is the most powerful institution of the security system, yet instruments of effective oversight are contradictory and institutionally weak. MIA's sole competences include those that fall into the following categories: operative, intelligence, counterintelligence, investigative, police, border protection, crisis response and combating trafficking and terrorism. A proper legal framework will support an effective transformation process within MIA and improve the executive government's ability to reform the system and create a foundation for a long-term process. This legal framework should also address mechanisms for transparency and democratic oversight.

1.5. Refine the legal framework that guarantees effective parliamentary, judicial, governmental and prosecutorial oversight of the special activity of security institutions. Democratic development and structural improvement of the security system requires that the Ministry of Internal Affairs and other security institutions be subject to effective democratic oversight of a parliamentary, governmental and judicial or prosecutorial civil nature. This should be achieved through a unified package of draft legislation and changes to existing laws on operative and investigative activity, intelligence, counterintelligence, public security service, police and intelligence service.

2. Recommendations for the Ministry of Defense

2.1. To change excessive top-down management practices that still plague the defense sector, which complicates meeting desired objectives and breeds inefficiency:

- MOD should speed up decentralization of decision making through further institutionalization of the defense planning and management processes, as well as establishing a Decision Making Board, Management Team and Supporting Working Groups that are fully operational;
- The Georgian Government should introduce institute the State Secretary as the highest official in career public service within the government structure who manages its work – as the highest career appointment in order to ensure continuity of reforms.

2.2. To ensure the proper implementation of defense sector guiding documents, defense priorities and planned structural changes in the Georgian Armed Forces, MOD shall:

- invest increased efforts in capacity building of personnel through further development and synchronization of military education, training and HR management systems;
- make detailed financial calculations and meticulous planning for building capabilities that will ensure swift establishment and efficient functioning of Eastern and Western Territorial Commands and their supporting elements; integrate these plans into relevant defense program/s; and
- Work out appropriate implementation plans for each approved defense program and ensure proper monitoring of their execution.

2.3. To facilitate competitiveness in decision making and instill a culture of producing an optimal and financially sound program-based budget that adequately supports defense priorities and objectives:

- Make full use of existing experience, documents and capacities; to further develop, institutionalize and make operational the Planning Programming and Budgeting System (PPBS);
- train/re-train personnel who will ensure the sustainability and efficient functioning of the PPBS, and develop training courses within the Military Academy for that purpose.

2.4. To ensure the further development, optimization and sustainability of the military personnel management system, MOD should:

- build in/streamline checks and balances that guarantee unbiased and efficient operation of the military personnel selection and evaluation components of the HR management system;
- invest consistently significant efforts to ensure that career development and promotions are based on training, education and evaluation components;

2.5. To ensure dynamic development of military personnel capacities and skills required to further build and modernize the Georgian Armed Forces in order to better meet national defense objectives, and to properly institutionalize such capacity building within the military training and education system, MOD should:

- Assess military personnel capacity in order to identify lacking skills and draft a realistic Master Plan - based on the assessment of available human and financial resources and their forecasted sustainable growth – that prioritizes the direction of the military education and training system and aims at eliminating the skill deficits in a coherent manner;
- based on the Master Plan, institutionalize the development, review and implementation of multi-year education and training programs for military personnel and secure sufficient long term funding for their unhindered execution;
- develop the required conceptual guidance and supporting documents including standing operating procedures (SOPs)

2.6. To properly organize and sustain civil society engagement in, and oversight of MOD activities, MOD should:

- Further activate already existing tools of cooperation with civil society within existing joint working groups by signing memoranda that determine the regularity and modalities of conducting working group meetings,
- Determine through consultation with the civic sector a list of important defense sector documents, in the development and implementation process of which, civil society will be engaged.

3. Recommendations for the Ministry of Internal Affairs

Institutional and functional analysis of Georgia's Ministry of Internal Affairs (MIA) has identified major weaknesses in areas of decision making, organizational management, planning and programming, human resources management, budgeting, education, transparency and accountability.

3.1. One of the major problem for MIA remains its enormous and complex structure, with functions and responsibilities that exceed the capabilities of a single agency. These include public safety, border management, counterintelligence and crisis management.

3.2. A new structure and way of managing the agency, that is tailored to Georgia's security needs, and based on available budgetary and human resources is needed. To tackle these problems:

- (a) The Ministry of Internal Affairs should create a special group or council of experts, including key personnel from MIA, relevant committees of parliament, the NSC, the new Safety and Crisis Management Council under the PM, academic institutions and think tanks with relevant expertise, and NGOs working in fields related to MIA.
- (b) MIA should initiate a process that will include creation of the special group or council of experts intended to review and draft recommendations regarding the possible transformation of MIA, which may include a new structure and a change in the agency's functions.

3.3. Analysis of MIA has identified a near absence of strategic-level documents, long-term plans and programs; the agency it mostly operates under laws and ministerial orders that at best serve the daily routine. Strategy 2013 and Strategy 2014 are attempts to document a vision

for the agency, but in reality they are a mixed list of long-, medium- and short-term goals serving different purposes. The strategy does not include an action plan or resources to support this strategy.

- (a) To close this gap and build a foundation of strategy and planning, MIA should launch a comprehensive institutional review process that yields concrete recommendations for streamlining operations and defining jurisdictional conflicts, normalizing the organization and composition of various units.
- (b) The review should outline new tasks for the agency and should identify a new structure, table of personnel, budget requirements, institutional tools and capacity needed to fulfill the major tasks and missions. Support from NATO and EU, with bilateral assistance from NATO and EU member states, is strongly advised for better and more efficient outcomes.
- (c) Training should be provided in strategic planning, organizational management, management, supervision, critical incident management, logistics management and other basic skills for which training is not now provided.

3.4. The study has identified that the overwhelming majority of career servants in MIA are police officers, including in such departments as finance, international relations and public relations, with a longstanding practice that political positions are usually occupied by police-rank personnel, which is not in line with the principle of civilian oversight.

MIA needs to create a civil service system. To tackle these problems:

- (a) Three major levels and types of office should be identified: political, which covers political appointees; civilian, which includes career MIA civil servants; and career police officers and noncommissioned officers (NCOs there is now no NCO institute in MIA).

- (b) MIA should identify positions to be occupied by uniformed and civilian servants.
- (c) MIA should emphasize a clear distinction between uniformed and civilian service, including definitions of responsibilities, tasks and careers (positions which that do not require powers of arrest or investigation should be made civilian.
- (d) MIA needs to establish a system of training prior to assignment to new positions at all levels. Specialized training should be mandatory in order to advance throughout a career.

3.5. Analysis of MIA management and planning systems identifies only very basic, routine planning tools, and no programming mechanisms in the agency. On this level, MIA cannot successfully engage in functions beyond the very short term.

The budget is strictly designed for one fiscal year; there are no tools for mid- and long-term acquisition; only procurement is executed routinely. There are no action plans and budgeting parameters supporting their implementation. To eliminate these deficiencies:

- (a) MIA needs to introduce more effective tools for planning and programming processes, which will enhance the agency's capability beyond daily and short-term operation.
- (b) Additional efforts are required to develop the capability to create mid- and long-term strategy, identify actions, and add budgeting parameters and human capacity required for the implementation process.

3.6. MIA has a promotion and retirement system based on several legal acts and ministerial decrees. There is no concept of HR management approach; an evaluation process is absent and the criteria for promotions are unknown. There is no career management system in

modern terms;; just rules on how to award ranks and appoint people. To eliminate these shortcomings, MIA should:

- (a) Create a resource management system and identify the human resource needs of the agency, both in civilian and uniformed areas.
- (b) Introduce new, effective parameters for career management, including selection, evaluation, promotion, retention and retirement. Civilian and uniformed career management should be separated.
- (c) Implement a human resources management system that is the central repository for all employee records, with a yearly audit of active employees' personnel files to ensure compliance with applicable rules, policies and laws.
- (d) Ensure that the human resource management system should also be responsible for ensuring that all employees receive due process when an adverse employment action is taken against an employee.

3.7. Based on its need for qualified personnel, MIA should modernize its education system. Recommendations include:

- (a) Education plan, including areas that MIA would cover by its own capacity and those which should be outsourced to civilian education institutions.
- (b) The MIA does not now require specialized or advanced training, usually leading to certification for employees working in specialized areas or with specialized equipment. The MIA should develop a standard of yearly advanced training that must be accomplished by each member of the Ministry to maintain their employment. At a minimum, sworn law enforcement employees must have annual training on ethics, legal updates and firearms to continue employment.

3.8. One of the biggest criticisms of MIA during the last two de-

cares has been the lack of transparency and accountability. As the study identified, there have been some initial attempts to improve the situation, but nothing to institutionalize this effort. As one of the ways to increase transparency and accountability MIA should create a permanent civil engagement body/council, with representatives from think tanks, NGOs and academic institutions. This will give the independent expertise and discuss issues of transparency and accountability.

3.9. Due to the lack of experience in managing the reform and transformation process, MIA needs assistance in building its capability and expertise to run a politically transparent, fully efficient and effective transformation process. Considering that the major fields of transformation are not pure policing and law enforcement issues, but ones of management and conceptual nature such as planning, decision-making, human resources, budget and, etc.), NATO has a strong capacity to advise and assist countries such as Georgia in such matters. The successful transformation of MOD from a Soviet type agency into a modern defense structure is a good example to follow.

To make good progress on these issues:

MIA is strongly advised to enlarge its cooperation with NATO beyond just border guard issues. Based on NATO interest to include additional areas of MIA in its annual action plan, MIA should start consultations to identify fields of mutual interest (for example, planning, budgeting, human resources management, decision-making and education).

This should give MIA access to valuable NATO expertise in relevant fields and increase the general level of transparency and accountability.

4. Parliamentary Oversight of Defense and Security

The basic provisions of Georgia's legislation regarding democratic parliamentary oversight comply with international norms. Parliament has the right to review and approve government policy, review and approve laws, approve the rule of budget spending, approve participation of the country's armed forces in international missions, initiate laws and impeachment and give or withhold votes of confidence. However, Georgia's parliament is less involved in the appointment and dismissal of high-ranked officials in the security sector; has limited power during development of the draft budget and incomplete access to security sector's expected expenses.

In addition, due to insufficient independence and authority of the Parliamentary Trust Group the parliament cannot ensure efficient oversight of activities of the Ministry of Internal Affairs, as well as classified programs of defense and security institutions.

The following steps would strengthen parliamentary oversight:

4.1 Introduce a system of planning, programming and budgeting for the security and defense sectors and ensure its integration into the state budget management system;

4.2 Ensure parliamentary oversight of the Ministry of Internal Affairs through empowering committees to fully exercise their right to initiate relevant legislation;

4.3 Introduce legislative amendments enabling individual trust group members to submit an issue to the plenary session;

4.4 Increase capacity of the parliament for ensuring efficient state audit of defence and security institutions.

4.5 Ensure an assessment of public order and the defense sector is included in the State Audit Office's annual audit report and comprehensively reviewed by the parliament;

4.6 Ensure the annual report of the State's Audit Office is published on the official website and accessible for wider public;

4.7 Ensure the parliament receives information on security and defense issues from various sources beyond the government and military;

4.8 Increase the efficiency of oversight activity through promoting cooperation between the parliament and national civil society organizations, think tanks or educational centers, as well as international organizations, forums and European and Euro-Atlantic interparliamentary cooperation initiatives.

5. Civic Engagement

5.1. Ensure civil society involvement in drafting and reviewing the national strategic level documents; strengthen the mechanisms for oversight of national security policy and foster civil society engagement in this process.

5.2. Institutionalize inclusive policymaking in the security sector in developing national and agency-level guiding policy documents.

INTERNATIONAL PRACTICES FOR THE SECURITY SECTOR GOVERNANCE

This Document includes the security sector governance case reviews of 6 countries: Finland, Lithuania, Poland, Slovenia, USA and the United Kingdom

INTRODUCTION

This paper is a compilation of the reviews, from different perspective, of the security sector governance systems in several mature democracies (Finland, UK and US) and the countries that have gone through the successful democratic and security sector transformation processes during the last two decades (Lithuania, Poland and Slovenia). It provides the information regarding the different models of the distribution of the security sector competencies between the three branches of power, as well as democratic oversight and checks and balances mechanisms employed in these countries. In addition, the paper reviews the strategic architecture and the guideline documents for the security sector in place. Special emphasis is also made on the best practices of the civic engagement and control of the activities of the national security and defence agencies.

FINLAND CASE

SECURITY SECTOR OF FINLAND

President's, PM's and Parliament's National Security Competencies
The foreign and security policy of Finland is directed by the President of the Republic in cooperation with the Government. The Prime Minister takes principal responsibility for matters relating to everyday administration of the government. The Constitution of Finland determines their respective competences.

The **President** of the Republic is the commander-in-chief of the defense forces. The President makes decisions on matters relating to military orders in conjunction with a Minister of Defense. The President makes decisions on military appointments and matters pertaining to the Office of the President of the Republic as provided by the legislation. Decisions on Finland's participation in military crisis management are made by the consent of the Parliament on a proposal of the President. On the proposal of the Government in situations of emergency, the President may relinquish this task to another Finnish citizen. The President appoints the officers of the defense forces. On the proposal of the Government, the President of the Republic decides on the mobilization of the defense forces. If the Parliament is not in session at that moment, it shall be convened at once to give its consent.

In the **Government**, the key actors in foreign and security policy issues are the Minister for Foreign Affairs and the Minister of Defense and, increasingly also the Minister of the Interior, since issues with an influence on the external and internal security are increasingly linked with each other. Since the accession to the EU, different administrative branches' direct responsibility for international cooperation in their own line of activities has increased.

In Finish model, it is Finland's Ministry of Foreign Affairs, which is in charge of the National Security Authority. Specifically, the National Security Authority is a separate unit at the Ministry for Foreign Affairs reporting directly to the Secretary of State. It is responsible for steering and monitoring activities to ensure that international classified information sent to Finland is protected and handled appropriately in accordance with the provisions of the act on international information security obligations.

The protection and processing instructions are based on the obligations that Finland has on the basis of the EU's security regulations and bilateral and multilateral information security agreements. The agreements provide a framework for Finland and Finnish companies in which they can take part in projects which require exchange of classified information.

The National Security Authority:

- Coordinates the activities of the Designated Security Authorities (DSAs) and cooperates with them;
- Issues Personnel Security Clearance Certificates (PSC Certificate) and Facility Security Clearances (FSC) and handles Request for clearance.

In the Government, matters pertaining to the national defense and security are prepared by the **Foreign and Security Policy Committee, and the Security and Defense Committee** at the state secretary level. The Ministry for Foreign Affairs and the Ministry of Defense prepare and implement Finland's foreign, security and defense policy.

Cabinet Committee on Foreign and Security Policy

- The Cabinet Committee on Foreign and Security Policy usually meets on Fridays, after the presidential session. The Committee is convened by the Prime Minister. Over the past years, the time allotted for the Committee meetings has been taken up by the joint meetings of the President of the Republic and the Cabinet Committee on Foreign and Security Policy
- The Cabinet Committee on Foreign and Security Policy is chaired by the Prime Minister. Its other members are the Minister for Foreign Affairs, any other minister designated to consider matters falling within the mandate of the Ministry for Foreign Affairs, the Minister of Defense and a maximum of four other ministers designated by the Government. When the matter in hand relates to his or her responsibilities, meetings of the Committee are attended by the Minister of the Interior; on the same basis, any other minister may also attend and participate in the Committee's proceedings.
- Important aspects of foreign and security policy and other matters concerning Finland's relations with other states, as well as important matters concerning internal security and overall national defense, are prepared by the Committee.
- The Ministry for Foreign Affairs serves as the Committee's secretariat.
- Minutes of this Committee's meetings are secret. Meetings are

attended by the Director of Government Communications who, in line with the Prime Minister's directions, is responsible for the dissemination of information on decisions taken.

The internal security issues are coordinated by the **Ministerial Working Group on Internal Security**.

In emergency conditions, the Government, subject to a Parliament decision, may be authorized to use the additional emergency powers provided in the Emergency Powers Act. The decision to begin using powers pursuant to the State of Defense Act is taken by Presidential Decree, subject to a Parliament decision. Separate provisions are adopted on the powers of the President of the Republic, the Prime Minister, relevant ministers and the Chief of Defense in dealing with military command matters relating to the Defense Forces and the Border Guard. **Government** decisions are made either at plenary sessions or within the ministry concerned. The ministries cooperate with each other as necessary, under the leadership of the competent ministry. In addition, ministries direct the state provincial offices and other subordinate sectors of administration within their respective mandates.

The **Prime Minister's Office** assists the Prime Minister in the overall management of the Government and in coordinating the work of the Government and Parliament. The Office coordinates the preparation and consideration of EU-related matters. Similarly, the Office coordinates the dissemination of Government information and organizes the general conditions and services for the proper functioning of the Government. The Prime Minister's Office is responsible for the Government's collective preparedness for emergency conditions.

The **Permanent Secretaries** have the task of directing and supervising the activities of their respective ministries. They are responsible for preparing the administrative sector's objectives, monitoring their implementation and ensuring the preparedness and security of the sector. The **Meeting of Permanent Secretaries** and the **Meeting of Heads of Preparedness** are permanent cooperation bodies. The Meeting of Permanent Secretaries and the supporting Meeting of Heads of Preparedness coordinate the administrative sectors' crisis management activities in special situations and also assist the Prime Minister's Office with regard to the Government's common preparedness for emergency conditions. When the matters being dealt with so requires, the Secretary General of the President of the Republic participates in the meeting of the permanent secretaries.

Defense Capability

Finland maintains a credible national defense capability, which relies on general conscription and a territorial defense system, designed to cover the whole country. This takes place by ensuring that Finland has a sufficient war-time troop strength. Finland develops its defense capability as a country not belonging to any military alliance and follows military-political developments, the evolution of the EU's defense dimension, and the changes taking place within NATO as well as the security political situation especially in the neighboring areas.

The Finish Defense Forces peacetime organization for 2015 is making sure that the Defense Command has the capability to lead defense planning and the development creation, maintenance and use of the defense capabilities. It consists of:

- The Defense Forces C4 Agency
- The Defense Forces Service Centre

- The Defense Forces Military Intelligence Centre
- The Defense Forces Technical Research Centre
- The Defense Forces Logistic Establishment

The task of the Defense Forces C4 Agency is to establish IT and telecommunication services as well as the required joint network for the command, control and administration of the defense establishment and associated organization.

The Defense Forces Service Centre provide administrative and expert service to the Defense forces.

The national operators in military intelligence are amalgamated into the Defense Forces Military Intelligence Center. The separate Defense Forces Military Intelligence Centre and the Finish Intelligence Research Establishments have been disbanded.

The Defense Forces' research and development activities have been merged in the Defense Forces Technical Research Centre. The key logistic and material activities have been placed in the Defense Forces Logistics Establishment.

Finland participates in international military cooperation in the framework of NATO's Partnership for Peace and provides troops for NATO-led crisis management operations in, for example, Western Balkans and Afghanistan. Finland also takes part in the formation of the Union's Battle groups in the framework of the European Union's Common Security and Defense Policy (CSDP) and provides troops for crisis management operations led by the EU and the UN.

Implementation of Civilian Crisis Management

The main form of action is deployment of civilian experts to operations undertaken by the European Union and international organizations.

The Ministry for Foreign Affairs is responsible for the political

guidance of civilian crisis management and decides to which operations Finland will contribute experts. The costs arising from participation in missions are financed from the budget of the Ministry for Foreign Affairs. The Ministry of the Interior is responsible for the maintenance of domestic preparedness, development and coordination. The division of labor is based on the act on civilians' participation in crisis management.

Internal Security

Internal Security is coordinated through the **Ministerial working group on internal security** consisting of:

- Minister of the Interior
- Minister of Agriculture and Forestry
- Minister for European Affairs and Foreign Trade
- Minister for Foreign Affairs
- Minister for International Development
- Minister of Transport
- Minister of Justice
- Minister of Health and Social Services

The Ministry of Internal Security is in charge of coordinating the activities, safeguarding internal security. More specifically, its tasks are defined as support timely decision-making by creating an internal security situation picture. The situation picture provides information on public order and security, emergency and maritime search and rescue services, the border situation and immigration flows. It also displays the international security situation as well as the one in Finland's neighboring regions. The crisis management model of the Ministry of the Interior as well as the required IT systems are developed

in such a manner that they make it possible to incorporate information regarding the protection of the population into the internal security situation picture. The development of the situation picture will also take into account the requirements of the EU's emergency and crisis coordination arrangements. In addition, backed-up telecommunications and the local authorities' capabilities are developed. It must be possible for the regional and state administration authorities to rapidly compile the situation picture. Furthermore, local authorities must receive prompt and reliable feedback.

Safeguarding the law enforcement system (MOJ). Ministry of Justice is charged with securing the Constitutional rule of law, guaranteeing the protection of life and health, protection of personal freedom and property as well as other statutory rights. This involves the ability of the police, investigative and law enforcement authorities to function and cooperate as well as ensuring the prerequisites of a functioning judicial system. The powers, number of personnel, training and equipment of the law enforcement authorities are maintained at the level required by the operating environment and their tasks. Preconditions and operational models for prompt handling of matters are established. The technical standards of court buildings will be improved so that even the most serious forms of crime can safely be tried in courts of law. The prison administration is preparing for increasing and new forms of criminality. In order to improve the operating conditions of prisons, their internal risks are taken into account when security systems are developed. The security of prisoner transport is improved.

Public order and security (MOI). Serious disturbances in society are prevented. Crimes endangering peoples' basic rights and targeted against the foundations of society and the economy are combated.

This involves a police capability to immediately intervene in threats or crimes along with the surveillance of foreign nationals and counter-terrorism actions. Intelligence, analysis and intersectoral cooperation are developed. This, especially, applies to cooperation within the EU as well as other international cooperation and makes it easier to combat various threats through intelligence-based law enforcement. By engaging in comprehensive security planning, it is possible to have the various actors in society committed as partners in the fight against crime. Measures related to the surveillance of organized crime, financial crime and foreign workers are developed. Expansion of the area in the EU where persons have the right to move freely is taken into account in the maintenance of public order and security.

The powers, numbers of personnel, training and equipment of the law enforcement authorities are maintained at the level required by the operating environment and their tasks. Cooperation between the law enforcement authorities, i.e. the Police, Finnish Customs and the Border Guard (PCB authorities) is intensified and focuses on criminal intelligence and crime analysis. The expansion of the Schengen area presupposes even more effective and comprehensive alternative measures substituting for the abolished border checks. Moreover, it also requires increased law enforcement cooperation between the new and old member states of the EU. Operational inter-authority cooperation is developed in line with the principles of Finnish PCB cooperation. Sufficient numbers of reserve police will be appropriately trained. The training and equipment of the reserve police as well as the functioning of Emergency Response Centers is developed so as to aptly support the security authorities.

To combat terrorism, a terrorism situation picture is created. This includes data on terrorist activities threatening Finland, possible targets of terrorism as well as persons deemed to be a threat who either

reside in or outside of Finland. As the situation picture is compiled, reports from institutions participating in the EU's police and judicial authorities' cooperation as well as other international contacts are utilized. Appropriate measures are launched to prevent radicalization in certain cases.

Emergency services and maritime search and rescue (MOI). Serious accidents are prevented, detected and warned of. In addition, accidents are restricted by attempting to limit their consequences. Rescue activities concerning accidents and disasters are developed. When developing the system, the focus is on the capability to launch swift and efficient rescue operations during major accidents. This involves contingency planning as well as the detection, analysis and operating capabilities of the emergency services in situations involving radioactive, chemical or biological agents. Maritime search and rescue (SAR) falls within the purview of the Border Guard. For this purpose, constant command and communications readiness is maintained, as is an appropriate radio traffic network. SAR at sea is carried out with the support of other maritime authorities. Related inter authority cooperation is developed in view of major maritime accidents and multipoint situations.

The role of voluntary maritime SAR services is strengthened. Modern and appropriately secure surveillance, warning and command systems are developed for emergency and maritime SAR services. When developing Emergency Response Centers the focus is on establishing sufficient technical facilities and premises in order to create a situation picture for various authorities. The use of electronic media in issuing warnings to the general public is developed with the objective of enabling the authorities to alert the entire population by using some electronic medium.

Border Management (MOI). Violations of provisions concerning the crossing of the national border and the seaward limit of territorial sea as well as threats against public order and security caused by cross-border passenger traffic are prevented. Furthermore, a safe and smooth flow of border traffic is guaranteed. This involves combating and exposing human trafficking and smuggling, the smuggling of nuclear agents and other radioactive substances, inspecting border traffic, surveillance of the Finnish-Russian border as well as the capability to reinstate border checks at the most important border crossing points on the internal borders of the Schengen area.

The Crisis Management Centre (CMC)

The Crisis Management Centre Finland (CMC Finland), located in Kuopio, is a governmental institution and a centre of expertise in civilian crisis management. The main tasks of CMC Finland are to train and recruit experts for international civilian crisis management and peacebuilding missions as well as conduct research focusing on civilian crisis management. CMC Finland acts as a national head office for all seconded Finnish civilian crisis management professionals.

The responsibility of civilian crisis management is shared between two ministries in Finland: the Ministry for Foreign Affairs and the Ministry of the Interior. The Ministry for Foreign Affairs is responsible for the political coordination of civilian crisis management and thus decides which missions Finnish experts may take part in while the Ministry of the Interior is responsible for issues concerning national capacity building on a strategic level. CMC Finland operates under the Ministry of the Interior and carries out the operational tasks of training and recruitment, as well as research and development. In addition, CMC Finland and the Finnish Defense Forces International

Centre (FINCENT) have jointly founded the Finnish Centre of Expertise in Comprehensive Crisis Management.

Intelligence Service

The **Finnish Security Intelligence Service** (Finnish: *Suojelupoliisi*, abbreviated **Supo**) is the intelligence agency of Finland in charge of national security. It is an operational security authority whose core functions are counterterrorism, counterespionage and security work. The basic values of the Security Intelligence Service are legality, reliability and quality. The statutory duties of the Service are defined in the Act on Police Administration. The agency's staff is composed of 220 policemen with additional training. It specializes in preventing security threats and participates in protecting the parliamentary democracy as well as protecting the nation's security interests. Formerly **Finnish Security Police**, on August 27, 2010, the agency changed its English name thereby removing the word *police*. This was done to mark the continuing change of the agency's mission away from the area of traditional police responsibilities, towards international security intelligence duties.

Military Intelligence Unit is part of the Ministry of Defense and separated from SUPO and accountable to the Ministry of Defense.

Both intelligence units are subject to the Parliamentary oversight, as part of the Parliamentary control system, envisioned by the Finnish Constitution and other legislative acts.

Parliamentary Oversight

Parliament of Finland has a considerable oversight power vis-à-vis the executive. Parliamentary consent is necessary for taking all key decision, dealing with the matters of national security and defense, starting from the announcement of war-which is the decision President can

take with the consent of the Parliament, and ending with the decision on Finland's participation in the EU crises management missions.

Parliament takes responsibility for legislative matters related to international relations and for the control of the implementation of foreign and security policy. The Foreign Affairs Committee prepares international issues that have been dealt with in Parliament, the Grand Committee prepares EU issues, and the Defense Committee prepares defense policy issues.

Parliament accepts Finland's international obligations and their denouncement and decides on the bringing into force of Finland's international obligations in so far as provided in this Constitution. The Foreign Affairs Committee of the Parliament shall receive from the Government, upon request and when otherwise necessary, reports of matters pertaining to foreign and security policy. Correspondingly, the Grand Committee of the Parliament shall receive reports on the preparation of other matters in the European Union. The Speaker's Council may decide on a report being taken up for debate in plenary session, during which, however, no decision is made by the Parliament. The Prime Minister shall provide the Parliament or a Committee with information on matters to be dealt with in a European Council beforehand and without delay after a meeting of the Council. The same applies when amendments are being prepared to the treaties establishing the European Union. The appropriate Committee of the Parliament may issue a statement to the Government on the basis of the reports or information referred to above.

Strategic Policy Documents of Defense and Security Sector

The government Security and Defense Policy Report, which defines the main directions of the policy is built on the comprehensive concept of security and is presented by the Prime-Minister to the Parliament for

approval. The report lays the foundation for guiding Finland's policy to advance Finland's interest and goals. It usually discusses the changes and trends in the global security environment and discusses Finland's security policy, defense development and action to secure the vital functions of society. It is reviewed and presented for the Parliamentary approval every three years. The report usually is giving an overview of the projected period of at least a decade, as the long-term nature of defense procurement, planning cycles and mid-life updates, defense development requires analysis of guidelines that extend over the extended period of time. The most important goals of Finland's security and defense policy are safeguarding the country's independence and territorial sovereignty, guaranteeing the basic values, security and well-being of the population and maintaining a functioning society. The government Resolution on the Strategy of the Function Vital to Society is another important strategic document. It concretizes the report of the Finnish security and defense policy and augments other Governmental guidelines concerning various sub-topics of security. The Security and Defense Committee is in charge of monitoring the implementation of the Strategy.

Civic Engagement

Civil society is involved in the security policy making through the process set for elaborating the strategic documents described above. In the process of collecting the information for developing the Strategic document, the relevant state agencies are consulting the NGOs and business community to reflect their concerns and views regarding the principles of preparedness for the potential threats. The strategic documents are also presented for discussion to the civil sector at the end of the drafting process for their finalization.

LITHUANIA CASE

SECURITY SECTOR OF LITHUANIA

President's, PM's and Parliament's National Security Competencies

Given their recent experience with Soviet rule and subsequent democratization, the experience of the Baltic countries is particularly relevant for developing of the blueprint of the recommendations for reform of the Georgian security and defense sector. Lithuania, since its Supreme Court established in 1998 that the country is a parliamentary democracy, rather than presidential one, presents the constitutional model, similar to the Georgian one, as defined by the new constitutional framework. Therefore it can serve as a very interesting case study. Democratic control over the military and security sector has been a chief concern of the architects of the new constitutional system of Lithuania, following the fall of the USSR and reestablishment of the independence. A democratic control over the defense and security sector in Lithuania is exercised through a tripartite structure, consisting of the president, the cabinet, and the parliament (Seimas). The respective authority of these institutions depends on the specific context (Peacetime or wartime) and the issue (such as defense planning or force deployment decision).

Even if the Lithuanian Constitutional model is considered as a parliamentary system, the fact that the Supreme Court had to rule on this

question, demonstrates that the constitutional system, still is similar to the “hybrid” model. Therefore, there is a certain tension and rivalry in President-Government relations, regarding defense and matter of national security. In this sense, what are the real powers, given, that the Lithuanian State Defense Council is important. And they are substantial. According to the available research on this subject, it is the State Defense Council rather than the cabinet that in reality draws up the state defense budget and handles most of the principle defense-related decisions. Powers of the State Defense Council in their turn translate in greater powers of the President in defining the matters of defense and security policy. In this respect, amongst the three Baltic States, Lithuania is considered as the model of stronger Presidential institute.

President

President is the Supreme Commander-in-Chief of the Armed Forces. In the event of an armed attack which threatens the sovereignty of the State or its territorial integrity, the President of the Republic has the right to immediately adopt a decision on the defense against the armed aggression, impose martial law throughout the State or in its separate part, announce mobilization, and submit these decisions to the next sitting of the Seimas for approval, while in the period between sessions of the Seimas he shall immediately convene an extraordinary session of the Seimas.

President chairs State Defense Council (SDC), which according to the Constitution is the central organ that considers and coordinates the main issues of national defense. It consists also of the Prime Minister, and the Speaker of the Seimas, the Minister of National Defense, and the Commander of the Armed Forces.

The interagency working group working under SDC drafts the Na-

tional security Strategy. SDC also approves the Lithuanian Military Strategy that is drafted by MOD.

SDC's national Security and Crisis management Division organizes national threat assessment process, including interagency coordination and presents it to the Council for review and approval. After approval, SCD send it to the government, which organizes its implementation. Document on diminishing the threats to National Security is also elaborated by the above Division, but it is a classified document.

SDC supervises the work of both, civilian and military intelligence agencies and evaluates their relevant annual reports. Council also approves the Civilian Intelligence Strategy and the Military Intelligence Strategy. Among the bodies working under the SDC is also the Intelligence Coordination Group, which is headed by the Secretary of the Council. This group works on the Intelligence Priorities Document.

Before 2011, intelligence and counterintelligence agencies had the law enforcement functions, but according to the recent new legislative changes, the law enforcement and intelligence collection functions have been separated. Lithuania has two intelligence-counterintelligence agencies, the State Security Department and the 2nd Operation Department of Military Intelligence. The State Security Department is a central organ for intelligence, where all information is gathered. It works under the President who proposes the head of this agency to the Seimas for approval.

The Special Investigation Service (SIS), which has functions similar to FBI, is in charge of criminal investigation, as well as corruption and power abuse prevention, is accountable to the President. President sets also the priorities for this service, which should be agreed with the Seimas.

Another important law enforcement agency that works under the President is the Prosecutor's Office. It has a discretion to decide which agency gets involved in the investigation of the national security matters, SIS or Police. Prosecutor's has also the authority to investigate espionage cases.

President's competencies include the appointment of the General Commissar of the Lithuanian Police. Police has two bureaus, Criminal Police Bureau and Public Police Bureau. President also appoints State Controller, who should be then approved by the Seimas. State Controller does financial audit and activities audit of the relevant state bodies and entities funded by the state budget.

PM and the Government

The Government, the Minister of National Defense, and the Commander of the Armed Forces are in charge of the administration and command of the armed forces of the State. Though Lithuania is a Parliamentary Republic, the executive power is shared between the Government and the President. Prime Minister is the head off the Government and his power, apart from the constitutional limits, depends on whether he/she presides over the majority or the minority government.

The Minister of National Defense may not be a serviceman who has not yet retired to the reserve. Thus, the constitution also stipulated the minister of defense must be a civilian.

Lithuanian government has a very interesting, longstanding practice that helps to de-politicize and thus increase the efficiency of the governmental agencies. In each ministry, there is a one Chancellor (formerly State Secretary), who is a non-political, highest ranked professional civil servant. The Chancellor has significant powers, is appointed for certain term and cannot be changed by the head of the

governmental agency until his/her term expires. The institution of Chancellor ensures the continuity, non-partisanship and institutional stability of the state agencies (this institution is regulated by the Law on Government and the Law on Public Service).

Parliament (Seimas)

Lithuanian defence and security policies must be approved by the Seimas before starting their implementation. The Government, the Minister of National Defense, and the Commander of the Armed Forces are responsible to the Seimas for the proper administration and command of the armed forces of the State.

Constitution provides that the Seimas shall impose martial law, announce mobilization or demobilization, adopt a decision to use the armed forces when a need arises to defend the Homeland or to fulfill the international obligations of the State of Lithuania. The Seimas can approve or overrule the decision of the President of the Republic on declaration of war.

Seimas has very effective mechanisms to oversee the defense and security sector activities and access all type of relevant information, including classified documents. Seimas Committees for National Security and Defence, EU Affairs and Human Rights are the main parliamentary bodies involved in the democratic control of the defense and security sector agencies. Seimas National Security and Defense Committee, a main parliamentary body conducting such oversight, dedicates bigger part of its efforts to oversight of the activities of special services, but also oversees the activities of the defence and boarder guard agencies. Ministry of Interior and Prosecutor's Office are controlled by the Seimas Committee for Legal Affairs.

Only 10 members of the parliament can request, once per 6

months, the visit of the ministers to the Seimas for questioning on relevant issues. Control tools of the Parliamentary Committees include: ask to come, budgetary control, launching investigation commissions, hearing reports and etc. Still, the parliamentary oversight is mostly focused on budgetary control, and there appears to be a need to put a bigger emphasis on a policy control.

Parliament approves the National Security Strategy and the Program on Long-term Planning. It does not approve and guideline documents for the intelligence-counterintelligence services, as this falls within the competences of the State Defence Council.

National Defense and Security System Governing Legislation

It is to be noted, that the given its history, political and security environment, Lithuanian Constitution, uncharacteristically, defines a lot of details related to the arrangements of its national defense and security system in the Constitution. However, the Constitution itself does not define fully the national defense planning system, or the structure of the civilian control over it. Therefore there are several important laws, which in conjunction with the Constitution define how the system operates. Amongst those are the Law on the Organization of the National Defense System and Military Service of May, 1998, which codifies the basic principles of the Lithuanian national defense system as set out in the constitution. It stresses Lithuania's desire to participate in Western defense structures and specified the role and responsibilities of the armed forces and paramilitary forces. It also provides for the political neutrality of the armed forces, decreeing that servicemen cannot be member of the political parties and organization, that they cannot engage in political activities and they cannot publicly disagree with official policies adopted by parliament, the president or the government.

Another important legislative act is the Law on the Fundamentals of

the National Security of December 1996, which sets out the functions of a democratically elected civilian government with respect to defense and the armed forces. In accordance with the constitution and the 1996 Law on the Fundamentals of National Security, the president, and the Seimas take decision on mobilization, declaration of war and deployment of armed forces in the event of armed aggression. The president or the minister of defense may issue orders to the armed forces to assist in domestic rescue operation or natural disaster relief. Only parliament has the right to decide on the deployment or use of armed forces outside Lithuania-as for example in peacekeeping missions.

Civic Engagement

Seimas Committees invite independent experts and NGOs to their hearings for the discussion of pertinent matters and also arrange separate meetings with them. When strategic documents are discussed in the parliament, the drafts are available online and NGOs and independent experts can send their comments to the relevant parliamentary committees, which are obliged to provide answers.

State Defense Council provides opportunities for CSOs to participate in the Ethics and Recruitment Commissions. Lithuanian CSOs have a bigger interest in working on the human rights issues in the security sector.

Lithuanian NGOs working in the defense and security sector created the League of NGOs that focus mostly on the national security issues. This League discusses internally the relevant security topics, drafts legislative proposals and letters and sends them to the Government for consideration. The League conducts the meeting with the Minister of Defense and the Chief of General Staff once or twice per year. So far, there is not much cooperation with the special services.

POLAND CASE

POLISH SECURITY SECTOR

President's, PM's and Parliament's National Security Competencies
In 1997, New Constitution transformed Poland into the parliamentary republic. Prime Minister (PM) is a Chief Executive and Chair of the Council of Ministers, while President is a Head of the State. Being in charge of the executive branch, PM appoints and controls the work of all ministers, including the ministers for foreign affairs, internal affairs and defence. Council of Ministers conducts the foreign and internal affairs of the country, and ensures its internal and external security. It also carries out general control in the field of national defence.

According to the Constitution, President is responsible for guaranteeing State's sovereignty, security, territorial integrity and observance of the Constitution. Being the Supreme Commander of the Armed Forces, President appoints the Chief of General Staff, commanders of branches of the armed forces.

National Security Council

President is free to decide on the composition and agenda of the National Security Council of Poland (NSCP), which is the advisory body to the President on the matters of state's internal and external

security.NSCP's main function is to investigate issues and form opinions relating to State's security, including its internal and external security, general guidelines for State's security, principles and directions of foreign policy, and directions of armed forces development.

Currently the members of the NSCP are: the Prime Minister, the Deputy Prime Minister which is also the Minister of Economy, speakers of lower and upper houses of Polish Parliament, Ministers for Foreign Affairs, Defence, Internal Affairs, Administration and Digitization, Head of the National Security Council, and Chairmen of three political parties.

National Security Bureau

NSCP's work, as well as execution of President's security and defence tasks is supported by the National Security Bureau (NSB). The Head of NSB is appointed by the president and has a rank of Secretary of State. Among NSB's functions are monitoring and analysis of strategic security environment (both, national and international) to identify threats, risks, challenges and opportunities, preparation of relevant reports in this respect, provision of opinions on drafts of the strategic documents issued or approved by the President. Through its departments, Bureau also assists President in monitoring the implementation of Armed Forces functions and writes reports on these matters. It cooperates with state agencies and social organisations working on issues related to the state's defences.

The Bureau's competencies also include collection of the information on non-military threats to national security, such as threats to social, public and economic security, and preparation of assessments in this regard. In absence of a state level strategic centre, it is also responsible for monitoring the enterprises that influence state's security

and defences level. NSB monitors, analyses and evaluates the work of state authorities, private and social organisations within the non-military spheres of national security, as well as their operation plans for the war and crisis situations.

President and the Government

President and the Government cooperate in the national security and defence policy making and policy implementation through uniquely designed system of checks and balances. Cabinet Council is constitutionally established body that serves as a forum for cooperation between President and the Government, but it does not hold any power competences.

On the request of the Prime Minister, President approves National Security Strategy, issues the Political and Strategic Defence Directive of the Republic of Poland and other executive documents for the National Security Strategy. He may, on the request of the Prime Minister, order mobilization and use of Armed Forces for the defence of the country.

President, on the request of the Minister of National Defence, describes main directions of Armed Forces' development and their readiness to defend the state. On the request of the Council of Ministers, he decides to send the Armed Forces abroad.

President has special executive and legislative authorities during the times of crisis. When external threats to the State arise, armed aggression is carried out against it or the common defence obligation based on international agreement should be honoured, President, on request of the Council of Ministers, may declare a state of martial law. During the martial law period, President is in charge of the defence in cooperation with the Council of Ministers.

According to the Constitution, Sejm, the lower chamber of Polish parliament, has the right to declare a state of war and conclude the peace. Only if Sejm cannot convene, the President is allowed to declare a state of war.

If Sejm is unable to convene during the period of martial law, President, on application of the Council of Ministers, within the constitutionally defined limits, may issue regulations that have the force of statute. These regulations must be approved by the Sejm at its next sitting.

President has also special authorities to support the internal security of the country. If constitutional order, security of citizens or public order is threatened, President, on request of the Council of Ministers, may introduce a state of emergency for a period of no longer than 90 days. During the state of emergency, President, on request of the Prime Minister, may decide to use the Armed Forces units for restoring the order in the country, if other efforts applied for this purpose have been already exhausted.

National Security Strategic Review 2010-2012

In 2010, Poland started the first ever National Security Strategic Review (NSSR). Its goal was to review and evaluate the current state of overall Polish security and national security system vis-a-vis the future security trends. Initiated by the President (Presidential Directive N4 of November 24, 2010), and started by the National Security Bureau, NSSR's ambition was to cover all aspects of security and thus develop the comprehensive approach towards the national security.

NSSR aimed at evaluating the coherence of national security policy and practice, as well as identifying any possible overlaps in the competencies and areas left uncovered. It was to recommend the mea-

asures that would ensure proper transformation of national security system for the coming 20 years period.

NSSR's main areas of analysis included: national interests and strategic goals, security environment within 20-year perspective, operational strategy, and preparedness strategy. It was carried out by the specially created NSSR Commission, chaired by the Head of the NSB. Commission's structure included the Advisory and Consultation Team (President's ministers and advisers, MPs, members of government, former heads of NSB, eminent experts), supporting Staff and four working groups each specializing on following areas: National Interests and Strategic Goals, Security Environment Evaluation, Concept of Action, and Security Sector Transformation.

Among others, NSSR recommended publishing of a new **National Security Strategy** in 2013, which should be followed by a **Political and Strategic Defence Directive** (secret document), and launching of a second NSSR already in 2015. It also recommended establishment of the Council of Ministers' committee for national security issues.

Results of the NSSR were unanimously accepted by the National Security Council and have been published in the **Report of the NSSR Commission**, which is a restricted document. Adapted version of this Report was made publicly available in the form of the **White Book** (May 24, 2013). White Book aims at increasing national security issues awareness in the society and within the institutions working in this field.

National Security Strategy (NSS)

According to the most recent version of this Document (2007), the National Security Strategy of Poland provides "official interpretation of the Polish national interests, identifies the Republic of Poland's strategic goals in

the area of security and sets out how it plans to achieve them, taking into account tasks allocated to different executive subsystems. The National Security Strategy also describes ways in which the national security system will be maintained and the directions of transformation of the national security system”.

NSS serves as guiding document for both, national and regional level state authorities, as well as other entities with national security responsibilities, which all are obliged to implement its decisions.

All respective governmental strategies and action strategies of the institutions having the national security tasks should be developed or adjusted in accordance with National Security Strategy. NSS serves as a basis for development of executive strategic directives, including the Political and Strategic Defense Directive, strategies for different fields of national security, strategic plans of defence response and crisis management and long-term state security system transformation programs, including non-military defence preparation programs and armed forces development programs. NSS is adopted by the Council of Ministers and approved by the President.

Defence Strategy

The Defence Strategy is a sector strategy of the National Security Strategy of Poland. According to its most recent version (2009), the Defence Strategy “outlines assumptions underlying the operation of the state’s defence. It identifies the functions and structure of the state’s defence system and maps out the main directions of the development of its subsystems”.

The Defence Strategy elaborates further and develops the defence provisions included in the National Security Strategy. It provides guidelines for working out of lower level documents in the defence sector. All governmental agencies, as well as private and other entities

assigned to discharge the defence related tasks are obliged to implement its provisions.

Crisis Management and Threat Assessment

The Crisis Management Act defines authorities responsible for crisis management, their tasks and operation rules, and funding of crisis management operations.

The Council of Ministers is in charge of crisis management on national level (in urgent cases minister for internal affairs takes the lead, but keeps the PM informed on his actions), while the ministers, voivodes (in voivodeships – regional territorial units), and local government authorities (in counties, cities or communes) are responsible for crisis management at their level.

Crisis management teams and crisis management centres are established at different levels, including government level (the Government Crisis Management Team and the Government Centre for Security), the ministerial and voivodeship levels, and the county and commune levels.

Government Crisis Management Team functions under the Council of Ministers and issues advices and opinions regarding the crisis management activities. PM is the Chair of the Team and the members of the Team are the Ministers for Defence, Internal Affairs, Foreign Affairs and the Minister Coordinating Special Services. In case of need, other state authorities also participate in its work. President has the right to appoint his representative as a member of the Team. The Director of the Governmental Center for Security serves as a secretary of the Team.

Governmental Centre for Security

Government Centre for Security assists in organizing the functioning of the units responsible for crisis management. It supports the Council of Ministers, PM, the Government Crisis Management Team and a Minister of internal Affairs in carrying out their crisis management responsibilities, and serves as a national centre for crisis management.

Government Centre for Security is a supra-ministerial structure subordinated to the PM that aims at optimizing and standardizing the perception of threats by individual government departments. The Centre launches the crisis management procedures at the national level, as well as implements the planning and programming tasks in the field of crisis management and critical infrastructure protection.

The main task of the Centre is to carry out comprehensive risk analysis based on the information provided by all crisis management centers and foreign partners. Its additional tasks are working out of adequate solutions to the crisis situations and coordination of the information flow regarding the threats.

Director of the Government Centre for Security is responsible for coordination of the preparation of the **Report on Threats to National Security**. It compiles the catalogue of threats and monitors the potential threats. The Head of the Internal Security Agency is entrusted with preparation of the part of the Report concerning the terrorist threats.

The Report on Threats to National Security is adopted by the Council of Ministers.

SLOVENIA CASE

SLOVENIAN SECURITY SECTOR

President's, PM's and Government's National Security Competencies

The office of President of the Republic of Slovenia was established on 23 December 1991, when the National Assembly of Slovenia passed a new constitution as a result of independence from Socialist Federal Republic of Yugoslavia. Being entrusted with limited power by the Constitution, in practice the position is mostly ceremonial. The President is directly elected by universal adult suffrage once every five years. Any Slovenian citizen can run for President, but can hold only two consecutive terms in office. President formally is the Supreme Commander-in-Chief of the Slovenian Armed Forces, although he or she does not exercise this position in peacetime. Instead, this role is usually assumed by the Minister of Defence.

The Prime Minister of Slovenia, unlike the President who is directly elected, is appointed by the National Assembly, and must control a majority there in order to govern. Ministers are appointed and dismissed by the National Assembly on the proposal of the President of the Government.

The National Security Council is the advisory and coordinating body of the Government for the area of national security, while the activities for the operation of the council are coordinated by its secretariat. The National Security Council coordinates the National security

policy, as well as directs and coordinates the activities implemented in order to peruse the national security interests and goals of the republic of Slovenia.

The Government of the Republic of Slovenia is the Cabinet that exercises executive authority in Slovenia pursuant to the Constitution and the laws of Slovenia. It is also the highest administrative authority in Slovenia. It comprises of the Prime Minister of Slovenia and 15 ministers, three of them without portfolio.

The Government, as the holder of the executive branch of power, represents the political and executive level of governance and administration of the national security system, and thus, directs and coordinates the implementation of the national security policy and operation of the national security system at all levels. It also adopts the necessary political, legal, organizational, financial and other measures.

Government carries out the country's domestic and foreign policy, shaped by the National Assembly; it directs and co-ordinates the work of government institutions and bears full responsibility for everything occurring within the authority of executive power. The government, headed by the Prime Minister, thus represents the political leadership of the country and makes decisions in the name of the whole executive power.

The following duties are attributed to the government:

1. executes the domestic and foreign policies of the state;
2. directs and co-ordinates the activities of government agencies;
3. administers the implementation of laws, resolutions of the National Assembly, and legislation of the President of the Republic of Slovenia;
4. introduces bills, and submits international treaties to the National Assembly for ratification and denunciation;

5. prepares the draft of the state budget and submits it to the National Assembly, administers the implementation of the state budget and presents a report on the implementation of the state budget to the National Assembly;
6. issues regulations and orders on the basis of and for the implementation of law;
7. manages relations with other states;
8. Performs other duties which the Constitution and the laws vest in the Government of the Republic.

The Secretariat-General of the Government perform the tasks defined in the Decree establishing the Secretariat-General of the Government of the Republic of Slovenia. It carries out the defence and security related tasks with support of the Defense Preparations and Security Service.

Office of the Secretary-General of the Government includes following organizational units:

- Division for the Preparation and Conduct of Government Sessions
- Division for Cooperation with the National Assembly and for European and International Cooperation
- Division for Administration of Government Working Bodies and Councils
- Division Supporting the Work of the Government Commission for Administrative Affairs and Appointments
- Division for Cooperation and Support of the Prime Minister's Office
- IT Division
- General Affairs Division

- Analysis Section
- Personnel Section
- Finance Section
- Public Procurement Section
- Joint Internal Audit Service

The primary task of the Secretariat-General is to assist the Government and to inform the public of the Government's work.

The Secretariat-General of the Government is responsible for:

- organizing sessions of the Government, its working bodies, strategic councils and other Governmental bodies;
- monitoring the implementation of resolutions adopted by the Government and obligations taken on or assigned to the Government;
- the participation of the Government or its representatives in the sessions of the National Assembly, cooperation with the President and other state bodies and organizations, and cooperation with other states and international organizations;
- ensuring the availability of opinions and other materials necessary for the formation of policy standpoints by the Government and its working bodies;
- the organization and activities of Government offices whose directors report to the Government Secretary-General;
- Other matters necessary for the functioning of the Government, its working bodies and councils, as well as those Government offices whose directors report to the Government Secretary-General.

Parliament

According to the Constitution of Slovenia, the **National Assembly** is the general representative and highest legislative body of the country, equivalent to the Parliament. However, a minor part of the legislative power resides also with the **National Council**, the representative body of basic social groups. In 2008, the **Constitutional Court of Slovenia** recognized the Slovenian Parliament as incompletely bicameral.

Laws can be proposed by the Government, or by any parliamentary or no less than five thousand Slovenian voters.

Declaration of War or State of Emergency

Under the Constitution of Slovenia (article 92) the declaration of war or state of emergency, urgent measures, and their repeal shall be decided upon by the National Assembly on the proposal of the Government. The National Assembly decides on the use of the defense forces.

In the event of war, if the National Assembly is unable to convene, the President of the Republic must submit its decision on war for approval confirmation to the next meeting of the National Assembly. The conducting of defense is supervised by the National Assembly.

The Slovenian Armed Forces (SAF) are organized as a fully professional army. The Supreme Commander-in-Chief of the SAF is the President of the Republic of Slovenia, while operational command is in the domain of the Chief of the General Staff of SAF.

The Ministry of Defense carries out administrative and professional tasks related to:

- The national defense planning;
- Development, organization, equipment, functioning, and command and control of the Slovenian Armed Forces;
- Preparation of civil defense, administrative communications and

cryptographic protection within the defense system;

- military schools;
- Organization, preparation and implementation of the system for civil protection and disaster relief, and rights and duties of citizens with respect to defense, civil protection and disaster relief.

The Slovenian Intelligence and Security Agency (SOVA) is the central civilian intelligence and security service established after the international recognition of the independent and sovereign state of Slovenia. Its basic activity is to protect national interests in the security, political and economic dimensions. Its organizational structure is designed so as to meet the requirements of its mission. The Agency's remit and authority, forms of its cooperation with other state agencies as well as the established forms of oversight of its work are set forth in the National Security Programme adopted by the National Assembly.

SOVA contributes to reaching the strategic national and security goals of the Republic of Slovenia with the intelligence, counter-intelligence, and security activities within the legal framework set by the SOVA Act. The Agency carries out its work under the oversight of the legislative, judicial, and executive branches of power, as well as of the public and internal control mechanisms.

The national and security interests of the Republic of Slovenia are defined more precisely in the Resolution on National Security Strategy of the Republic of Slovenia (ReSNV).

The Republic of Slovenia's security and defence sector's strategic and other guideline documents include: ReSNV, Defence Strategy, Resolution on General Long-term Procurement Plan of the and Military Doctrine.

UK CASE

SECURITY SECTOR OF THE UNITED KINGDOM

Introduction

As the classical Parliamentary democracy, the United Kingdom presents the model of the government, where the Prime-Minister is in charge of coordinating all major fields of the national policy. Defense, Security and Foreign Policy is coordinated by the Prime-Minister, in coordination with the Cabinet members. As part of the reform package offered by the government of David Cameron, some important changes have been introduced in the security architecture of the United Kingdom. One of the major innovations has been setting up a **National Security Council** and appointment of the **National Security Adviser**. The National Security Council brings together key Ministers, and military and intelligence chiefs. It meets weekly and is driving a culture of change at Whitehall, placing a powerful agency right at the heart of government to make sure that the limited resources are deployed to the best effect.

The National Security Council (NSC) is the main forum for collective discussion of the government's objectives for national security and about how best to deliver them in the current financial climate. A key purpose of the Council is to ensure that ministers consider national security in the round and in a strategic way. The Council meets weekly and is chaired by Prime Minister David Cameron.

Structure of the NSC

There are currently three ministerial sub-committees of the Council:

- to consider threats, hazards, resilience and contingencies including a restricted group to consider intelligence matters
- to consider nuclear deterrence and security
- the UK's relationship with emerging international powers

Their remit is to examine more specific national security areas in which a range of relevant departments participate.

Additionally there are associated cross-government senior official groups that support and inform these ministerial level structures. Principal amongst these is the Permanent Secretaries Group chaired by the National Security Adviser. The National Security Adviser also acts as secretary to the NSC.

Other Cabinet ministers attend as required (i.e. depending on what the Council is discussing). Similarly the Chief of the Defence Staff, Heads of Intelligence Agencies also attend when required.

The work of the NSC is supported by the **National Security Secretariat**, which provides coordination on security and intelligence issues of strategic importance across government. Separately, **the Joint Intelligence Organisation** produces independent all-source assessments on issues of national security and foreign policy importance. By supporting the work of the National Security Council and the Joint Intelligence Committee respectively, they provide advice on these issues to the Prime Minister and other senior ministers.

The National Security Secretariat is responsible for:

- providing policy advice to the National Security Council, where ministers discuss national security issues at a strategic level
- coordinating and developing foreign and defence policy across government
- coordinating policy, ethical and legal issues across the intelligence community, managing its funding and priorities, and dealing with the Intelligence and Security Committee which calls it to account
- developing effective protective security policies and capabilities for government
- improving the UK's resilience to respond to and recover from emergencies, and maintaining facilities for the effective co-ordination of government response to crises
- providing strategic leadership for cyber security in the UK, in line with the National Cyber Security Strategy

The Joint Intelligence Organisation is responsible for:

- providing all-source intelligence assessments for the Prime Minister, the National Security Council and policy makers across government which assess threats to the UK and UK interests overseas
- giving early warning of the development of direct and indirect threats and opportunities in those fields to British interests or policies and to the international community as a whole
- maintaining oversight of the assessment of intelligence across government, encouraging professional standards and best practice to improve government's analytical capability as a whole

Outline of the Defense Structure

The main government body of the UK in charge of the defense is the Ministry of Defense. It has 7 military tasks:

- defending the UK and its overseas territories
- providing strategic intelligence
- providing nuclear deterrence
- supporting civil emergency organisations in times of crisis
- defending our interests by projecting power strategically and through expeditionary interventions
- providing a defence contribution to UK influence
- providing security for stabilisation

The Defence Board is the highest committee in the Ministry of Defence (MOD). It is responsible for the full range of Defence business, other than the conduct of operations.

Chaired by the Secretary of State, the Defence Board is the main corporate board of the MOD, providing senior level leadership and strategic management of Defence, driving forward delivery and change. The current membership of the Defence Board is: the Secretary of State; the Armed Forces Minister; the Permanent Secretary (the most senior civilian in the Department); the Chief of the Defence Staff (the professional head of the Armed Forces); the Vice Chief of the Defence Staff (the Chief Operating Officer for the Armed Forces element of defence business); the Chief of Defence Materiel (the head of Defence Equipment and Support); the Director General Finance; and three non-executive Board members.

The Defence Board is responsible for delivery of the Defence Vision, which is: 'To defend the United Kingdom and its interests,

strengthen international peace and stability, and act as a force for good in the world’.

In order to deliver this vision the Board is responsible for pursuing three high-level Departmental objectives, namely:

- achieve success in the military tasks we undertake, at home and abroad
- be ready to respond to tasks that might arise
- build for the future

In pursuit of these high-level objectives the Defence Board’s core tasks are:

- Role of Defence: To help define and articulate the Department’s strategic direction, and provide a clear vision and set of values for defence
- Targets and Objectives: To establish the key priorities and Defence capabilities needed to deliver the strategy
- Resource Allocation: To ensure that Defence priorities and tasks are appropriately resourced
- Performance Management: To manage corporate performance and resources in-year to deliver the required results

The Defense Council is the senior departmental committee. It is chaired by the Secretary of State, and comprises the other ministers, the Permanent Under Secretary, the Chief of Defense Staff and senior service officers and senior officials who head the armed services and the department’s major corporate functions. It provides the formal legal basis for the conduct of defense in the UK through a range of powers vested in it by statute and Letters Patent.

Defence Safety and Environment Authority (DSEA)

Creation of the Defence Safety and Environment Authority (DSEA) represents implementation of one of the key recommendations of the Haddon Cave report on the loss of Nimrod XV230 in Afghanistan in 2006, which was that, to avoid a conflict of interest, those responsible for the regulation of safety should be independent of those responsible for delivering output. As well as complying with Haddon Cave, creation of the DSEA was endorsed by the Defence Reform report.

MOD has already implemented the principle of regulatory independence in aviation by setting up the Military Aviation Authority (MAA). The DSEA sits alongside the MAA and regulates all other areas of defence where we have exemptions from legislation. These exemptions exist because of the particular needs of defence and cover areas such as nuclear, maritime, explosives and ordnance, and fuels and gases.

The Secretary of State's health, safety and environmental protection policy statement requires that MOD complies with the law where we are subject to it, and that where we have exemptions we should produce internal regulations that produce outcomes that are, so far as reasonably practical, at least as good as those required by legislation; in addition to regulation, the DSEA is responsible for overarching safety and environmental protection policy and will carry out high level assurance to establish whether TLBs and TFAs are complying with the requirements of legislation, as well as internal regulation, in accordance with the Secretary of State's policy statement.

Mission Statement

The DSEA's mission is to regulate safety and environmental protection for those conducting defence activity in compliance with the

Secretary of State's policy statement on safety, health, environmental protection and sustainable development. It does this by implementing MOD regulatory regimes in all safety domains outside aviation, producing departmental policy for safety and environmental protection and providing high level assurance on whether defence is meeting statutory and internal regulatory requirements.

Defence Suppliers Forum

The major conduit for MOD-industry relationships, the Defence Suppliers Forum (DSF) is chaired by Secretary of State Philip Hammond, and includes representatives from Prime Contractors, international companies and Small and Medium Sized Enterprises (SMEs). This allows for a broad, representative and productive focus for interaction between the MOD and industry. It is complemented by a dedicated SME Forum, chaired by the Minister for Defence Equipment, Support and Technology (Min (DEST)) which has proved successful at establishing a dialogue with these important suppliers.

In addition to the members listed below, attendees include representatives from other government departments and industry.

Internal Security-The Home Office

The United Kingdom has a power equivalent of the Ministry of Interior-the Home Office. The Home Office leads on immigration and passports, drugs policy, crime policy and counter-terrorism and works to ensure visible, responsive and accountable policing in the UK. The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.

The key areas of responsibility of the Home Office are:

- working on the problems caused by illegal drug use
- shaping the alcohol strategy, policy and licensing conditions
- keeping the United Kingdom safe from the threat of terrorism
- reducing and preventing crime, and ensuring people feel safe in their homes and communities
- securing the UK border and controlling immigration
- considering applications to enter and stay in the UK
- issuing passports and visas
- supporting visible, responsible and accountable policing by empowering the public and freeing up the police to fight crime

The work of the Home Office is supported by a number of agencies and departments:

- National Fraud Authority
- Disclosure and Barring Service
- Independent Police Complaints Commission
- Office of the Immigration Services Commissioner
- Security Industry Authority
- Advisory Council on the Misuse of Drugs
- Animals in Science Committee
- Migration Advisory Committee
- National DNA Database Ethics Group
- Police Advisory Board for England and Wales
- Police Negotiating Board
- Technical Advisory Board
- Investigatory Powers Tribunal
- Office of Surveillance Commissioners
- Police Arbitration Tribunal

- Police Discipline Appeals Tribunal
- Biometrics Commissioner
- Forensic Science Regulator
- HM Inspectorate of Constabulary
- Independent Chief Inspector of Borders and Immigration
- Independent Reviewer of Terrorism Legislation
- Intelligence Services Commissioner
- Interception of Communications Commissioner
- National Crime Agency Remuneration Review Body
- The Security Service
- Surveillance Camera Commissioner

As a powerful agency, the Home Office is in charge of coordinating all important policies, dealing with the national defence and security. **Borders and Emigration**-the government is responsible for securing the UK's borders. It must deliver an improved migration system that commands public confidence and serves our economic interests. UK government believes that improving migration processes to reduce abuse and limiting non-EU economic migration will better serve Britain's interests and deliver a fair system. Border authority is constituted by Border Force, which is a law enforcement command within the Home Office. It secures the UK border by carrying out immigration and customs controls for people and goods entering the UK.

Border Force was formed on 1 March 2012 as a law enforcement command within the Home Office. Border Force secures the border and promotes national prosperity by facilitating the legitimate movement of individuals and goods, whilst preventing those that would cause harm from entering the UK. Border Force is responsible for:

- checking the immigration status of people arriving in and depart-

ing the UK

- searching baggage, vehicles and cargo for illicit goods or illegal immigrants
- patrolling the UK coastline and searching vessels
- gathering intelligence
- alerting the police and security services to people of interest

National security

The government works to identify the most pressing risks to Britain's security, and puts in place the ways and means to address them. The Home Office is in charge of producing the strategic documents, which define the Crises Response plans at the National Level. It also coordinates the process through the devolved administration with the local government of the constituent parts of the UK.

Home office is also in charge of all **crime and policing functions as well as Law and the justice system.**

Recent Reforms

The establishment of the **National Security Council** mandated certain changes in the way the governmental procedures for dealing with the security matters were set up. In January of 2011, the National Security Adviser and the Chairman of the **Joint Intelligence Committee** produced a report on the needed changes.

Joint Intelligence Committee's role:

Report advised that the NSC's priorities should be the lead driver of the JIC agenda, following as closely as possible the NSC agenda and timetable. The NSC officials will oversee the tasking of the JIC, in line with its core role of setting strategic direction for the NSC. The NSC

will task the JIC, but the last will retain the latitude to provide early warning on the issues outside of the immediate cycle of the NSC agenda. It was also decided that the needs of the NSC would be best supported if the JIC meets at two levels, at a Principals and a Sub-Principals level. This would better balance high level strategic judgments on the NSC priorities with those less immediately before the NSC, of importance to policy Department or more tactical short term assessment's. Senior JIC members meet monthly, at the principal's level, also at the sub-principal's level to agree on the papers in between. It was also recommended that the JIC should produce a wider range of tailored intelligence products. The number of the full JIC papers will be less, replaced by more current briefs and summaries.

The recommendations have also placed the **Defense Intelligence and Joint Terrorism Analysis Center** directly at the disposal of the NSC. In line with the SDSR commitment on assessment. The leadership of the Joint Intelligence Organization was charged with ensuring that the collective business plans of the HMG's assessment bodies align with the NSC priorities. However, the report also recommended that it needs to be done in a way that respects the operational independence and links to other organizations of those assessment bodies. In supporting the NSC, the policy implications of analytical judgments should be identified in significant assessments given to Ministers. This could be achieved through closer working between assessment and policy expertise in the Cabinet Office while respecting the independence of intelligence assessment from policy.

The Joint Intelligence Organization should implement the recommendations of its open source audit. This includes recruitment of a dedicated information specialist to improve the way that the JIO exploits open source, and its ability to support the use of open source

material across the intelligence community. On briefing intelligence to Ministers the report concluded that: Clearer processes should be established to ensure that Ministers receive timely, well-chosen and auditable intelligence reports consistent with the principles set out in Lord Butler's report of 2004. These should also enable everyone handling intelligence for Ministers to understand what sets it apart from other reporting, to understand the range of intelligence products, and to know where to go to for training and guidance.

Main Strategic Documents

The National Security Strategy and the Strategic Defence and Security Review are the main policy documents produced by the government. The Strategy describes how - in an age of uncertainty -UK needs the structures in place to allow the country to react quickly and effectively to new and evolving threats to our security. The Strategy identifies 15 priority risk types, the most pressing of which are:

- acts of terrorism affecting the UK or its interests
- hostile attacks upon UK Cyber Space
- a major accident or natural hazard (for example, influenza pandemic)
- an international military crisis between states, drawing in the UK and allies

In the 2010 National Security Strategy, the Government undertook to publish annual report on the implementation of the National Security Strategy and of the Strategic Defence and Security Review for the **Joint Parliamentary Committee on the National Security Strategy**.

The latest National Security Strategy and Strategic Defence and

Security Review was produced in 2012, covering the period of 2012-2014. The report outlines the developing global context, including security risks that have emerged over the last year. It summarises significant progress against the National Security Tasks and on related issues including defence transformation. Finally, it notes wider issues and offers initial reflections on lessons identified to date. In taking this approach, the report seeks to respond to JCNSS comments on the 2012 Annual Report.

The 2010 Strategic Defence and Security Review recommended a wide-ranging package of work to improve our national security and better protect the interests of the UK at home and overseas. It set out a complex and challenging set of commitments, in many cases requiring early investment to deliver the benefits. Overseen by the National Security Council, which drives both long-term strategy and operational delivery, implementation is overall on track: good progress has been made on over 90% of those commitments and many are now fully implemented. The Government is committed to maintaining its focus to ensure that progress is maintained and all of the commitments delivered.

Parliamentary Oversight

As the classical Westminster model of the Parliamentary Democracy, the UK offers a very strong system of Parliamentary oversight over the security sector activities of the executive branch. The Parliamentary authorization is required not only for all major decisions of the Executive branch, but also for the endorsement of the strategic documents. Besides the regular framework of accountability, which is offered by the Parliamentary mandate of budget approval, Committee and House hearings on the issues of the National Defense and Security, it is noteworthy to

mention several special Parliamentary structures, which are in charge of oversight activities of the government's work in the defense and security sector. In addition to regular standing committees, which deal with the defense and security issues-such as the Committee on Defense of the House of Commons, and the House of Lords, there are several structures, which have been created in the UK Parliament to address the issues of the national security.

The Intelligence and Security Committee of Parliament (ISC) was first established by the Intelligence Services Act 1994 to examine the policy, administration and expenditure of the Security Service, Secret Intelligence Service (SIS), and the Government Communications Headquarters (GCHQ). The Justice and Security Act 2013 reformed the ISC: making it a Committee of Parliament; providing greater powers; and increasing its remit (including oversight of operational activity and the wider intelligence and security activities of Government).

Other than the three intelligence and security Agencies, the ISC examines the intelligence-related work of the Cabinet Office including: the Joint Intelligence Committee (JIC); the Assessments Staff; and the National Security Secretariat. The Committee also provides oversight of Defense Intelligence in the Ministry of Defense and the Office for Security and Counter-Terrorism in the Home Office. Members of the ISC are appointed by Parliament and the Committee reports directly to Parliament. The Committee may also make reports to the Prime Minister on matters which are national security sensitive. The Members have access to highly classified material in carrying out their duties. The Committee takes evidence from Cabinet Ministers and senior officials – all of which is used to formulate its reports.

Joined Committee on the National Security Strategy

The Committee's terms of reference are "to consider the National Security Strategy". It does not duplicate the work of other Select Committees, and instead intends to draw on their work. The Committee "scrutinizes the structures for Government decision-making on National Security, particularly the role of the National Security Council and the National Security Adviser.

USA CASE

SECURITY SECTOR OF THE UNITED STATES OF AMERICA

The Source of Oversight Power

Under the Constitution of United States of America US Congress has so called 'implied power' of Oversight of the Executive branch of US Government. This includes Congressional power to oversee actions of security sector, including Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS). An oversight of State Police forces is conducted differently in all states according to State Constitutions and practices of state legislative and executive bodies.

As it was stated by members of US Congress and its committees, an oversight power is not meant to weaken or damage capacities of executive agencies, but instead, to strengthen, in the long run, their abilities and to protect liberty, and the principles upon which the United States were founded.

The Purpose of Congressional Oversight

Congress's oversight power of the Executive agencies has several objectives. Among them are the following:

- To Ensure the Executive is in Compliance with Intent of Legislators;
- To Protect Individual Rights and Liberties;
- To Improve Effectiveness and Efficiency of Governmental Operations;
- To Assess Program Performance;
- To Investigate Alleged Abuses of Power, Waste, Fraud and Dishonesty;
- To Prevent Executive Encroachments on Legislative Powers;
- To Evaluate Officials' or Agency's Abilities to Fulfill Program Objectives;
- To Review and Determine Federal Financial Priorities;
- To Ensure that Executive Policies Further Public Interest.

Subjects of Congressional Oversight:

Central Intelligence Agency (CIA),
Federal Bureau of Investigation (FBI),
Department of Homeland Security (DHS).

CIA

Since the establishment of CIA in 1947, US Congress exercised oversight over it. At the beginning, this Congressional power was exercised less formally than at the present time – formal testimonies and hearings were rare.

However, later on, both houses of US Congress conducted oversight of CIA through Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence. In addition to these, oversight power was exercised by Armed Services, Foreign Affairs and Foreign Relations Committees, who authorized programs of CIA.

In 1980 Congress passed Intelligence Oversight Act which established current oversight structure: from then on Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence were sole oversight committees for the CIA. Yet, the House and Senate Appropriations Subcommittees on Defense, having their constitutional role in appropriation of funds for activities of US Government, also exercise oversight functions.

Moreover, the Select Intelligence Oversight Panel was created as a Joint House subcommittee as a result of 9/11 Commission recommendations.

Finally, the Office of Congressional Affairs is the principal body for CIA activities with Congress, which guarantees CIA's legal responsibilities with Congress, to have Congress fully informed about intelligence activities of CIA. In addition to this, the Office of Congressional Affairs works on numerous draft proposals of CIA and prepares legislative bills for further deliberations.

Today, Congressional oversight power on activities of intelligence agencies is stronger than ever, despite of existing and current terrorist threats vis-a-vis US and its citizens, against which all intelligence agencies are busy directing their major efforts.

FBI

As in the case of CIA, the both houses of US Congress have extensive oversight powers upon FBI and its activities, which is exercised through different Senate and House Committees.

Usually, most hearings, closed or open, were conducted in Senate Judiciary Committee as well as in the Committee on the Judiciary of House of Representatives. However, additional committees were created in order to exercise oversight in more detailed and thorough

manner, in order to strike a balance between government's legitimate national security interests, on the one hand, and on the other, constitutional safeguards against executive governmental excesses and intrusions into the exercise of free speech, associational and privacy rights.

Two such committees in House of Representatives are House Committee on Government Reform and Oversight, and House Permanent Select Committee on Intelligence, which is the primary committee of US House of Representatives, charged with the oversight power upon US intelligence community. (This committee shares some of its jurisdiction with Armed Services Committee, when issues involve US Department of Defense).

This oversight is multi-faceted, including closed hearings on classified materials, informal briefings and public hearings. The main goal of oversight, according to Senate members, is to ensure that the FBI performs at its full potential, as well as it helps to improve agency's legislative basis. Moreover, while potentially embarrassing to any law enforcement agency, oversight strengthens FBI in the long run.

DHS

US Congress has same power of oversight of Department of Homeland Security, which is exercised through US Senate Committee on Homeland Security and Governmental Affairs and House Committee on Homeland Security, as well as House Committee on Oversight and Government Reform.

The Senate Committee on Homeland Security and Governmental Affairs is the primary committee of Senate exercising oversight upon the executive department in question. This committee functions as main oversight and investigative committee of the Senate, which

focuses on issues of various abilities and effectiveness of Department of Homeland Security in such diverse areas as natural disasters and catastrophe response, financial system and power system security, domestic terrorism threats and other nationally important and economically strategic areas.

The US House Committee on Homeland Security oversees all issues dealing with the security of United States. Also, it deals with legislative initiatives in this field by amending, tabling, and approving such proposals. It also has subpoena powers as well as access to classified documents dealing with national security.

State Police Force

The practice of oversight of state police forces varies from state to state. Some states have so called 'Police Boards' consisting of local government member exercising an oversight; other states have different tradition and practices, like creation of temporary or permanent state legislative committees, which perform oversight function of state police activities. In some states, there is a civilian control of state police, where so called 'Police Boards' are made of common citizens, chosen for certain periods of time. Thus, practice of oversight of state police is specific to almost all states.

Conclusion

Public scrutiny and open debate regarding activities of US security and intelligence agencies is pivotal to their accountability to the people of United States, whom they serve and protect. In this process, Congressional oversight power plays a crucial role in American democracy.

The American constitutional system of checks and balances demands that different branches of government make sure that not any

one of governmental branches accumulates unchecked and unaccountable power, so that architecture of constitutional tripartite government would be jeopardized under undue weight of any particular branch.

An oversight system is one crucially important instrument, which protects basic liberties upon which United States of America is founded.

SOURCES:

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