



NATIONAL SECURITY ARCHITECTURE OF GEORGIA



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The National Security Architecture of Georgia

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Introduction

National security is a multi-faceted concept. To put it in a single and universally applicable definition would be a burdensome task. Placing emphasis only on law enforcement and militarized institutions while discussing national security is a narrow and outdated approach.¹ In a modern sense, national security is much more complex – it encompasses any activity carried out to secure national interests – detecting, identifying, assessing, preventing, and eliminating threats, risks, and the state's internal and external challenges. The Law of Georgia “On Planning and Coordination of the National Security Policy” shares this very logic and states that the areas of the national security policy are as follows:²

- state defense;
- external security;
- internal security;
- social, economic, and energy security;
- public safety;
- information security;
- legal order.

The state security architecture is the set of institutions responsible for developing and implementing the policy framework in this area. Proper functioning of the security system with national-level coordinated actions and proper democratic oversight is based on accurate and apt identification of threats, risks, and challenges and adequate response to them. Accordingly, national security policy must be perceived as a multi-layered architecture to effectively distribute competencies between state agencies and promote apt oversight between them.

It is vital to design a clear legislative framework for establishing a reliable and stable national security system as modern democratic standards dictate. Besides, the sharp division of competencies and adequate mechanisms for checks and balances must be in place. National security architecture should guarantee the proper distribution of powers, effective development and implementation of agency-level and national-level policies, apt institutional checks and balances, effective inter-agency coordination, and democratic oversight.

The current constitutional order has altered the security system: the Government's competencies in state security have grown, whereas the President's – weakened.³ Powers and accountability stakeholders of some agencies reshaped. The Parliament approves the National Security Concept of Georgia,⁴ while the planning and coordination process of the policy is entirely up to the executive branch. The President's deliberative bodies – the State Security and Crisis Management Council and the National Security Council – were abolished.⁵ The

¹ Giorgi Bilanishvili, “Dangers Originating from Russia and Georgia's Security System”, Georgian Foundation for Strategic and International Studies”, 04.01.2018, available: <https://bit.ly/3KLOJAY>, accessed 29.03.2023.

² Article 3, The Law of Georgia “On Planning and Coordination of the National Security Policy”.

³ Articles 49, 52, 54 and 55 of the Constitutional Law of Georgia “On Amending the Constitution of Georgia”, available: <https://bit.ly/3JT6ahu>, accessed 28.03.2023.

⁴ Articles 14 and 15, The Law of Georgia “On Planning and Coordination of the National Security Policy”.

⁵ Website of the National Security Council, section “About the Council”, available: <https://bit.ly/3Unugpm>, accessed: 29.03.2023.

functions of the abolished councils were accorded to the newly established National Security Council ('the NSC'. Though the names of the abolished and newly created councils coincide in the English language, in Georgian, they differ slightly - author). The NSC provides information to the Prime Minister on matters threatening national security. Other than that, NSC envisions policy decisions for the Prime Minister and is responsible for planning and coordinating the national security policy. Obligations to implement the activities outlined by national-level conceptual documents are allocated among various state agencies. The composition of the NSC⁶ indicates that the following bodies are involved in carrying out the goals and objectives of national security:

- State Security Service;
- Intelligence Service;
- Ministry of Defence;
- Ministry of Internal Affairs;
- Special State Protection Service;
- Ministry of Foreign Affairs;
- Ministry of Finance.

Each of the above-listed agencies has a mandate defined by the legislation to ensure national security via their structural subdivisions. The fact that securing national interests is the duty of law enforcement and/or militarized agencies does not preclude other institutions from being involved in guaranteeing state security.

This document reviews the institutional arrangement, main functions, management issues and the accountability concerns over the National Security Council and its bodies.

1. National Security Council

1.1. 1992-2019 Reforms of the National Security Council

The concept of the National Security Council (the 'Council') first appeared in the Law "On State Power", adopted on November 6, 1992. Then-name was the National Security and Defense Council. The law "On State Power" designed the powers and rules for the supreme state authorities of Georgia. According to this Law, the primary task of the National Security and Defense Council was to ensure national defense, security, and public order.⁷ The Council was chaired by the Head of State (Chairman of the Parliament) and was accountable to the Parliament.⁸ National Security Council (active until 2018) is another agency whose tasks were transferred to the current deliberative body – the NSC. National Security Council (active until 2018) has a relatively long-standing history – from 1995 to 2018, it was subordinated to the President; Unlike its predecessor, National

⁶ Paragraph 2 of the Article 19³, The Law of Georgia "On Planning and Coordination of the National Security Policy".

⁷ Article 31 of the Law of the Republic of Georgia "On State Power" (repealed on 17.04.1997).

⁸ idem.

Security Council (active until 2018) was headed by the President and had the status of the constitutional body. Its primary functions were related to state defense and military development.⁹ The powers of the Council were expanded.¹⁰ Among other things, the Council was responsible for planning: domestic and foreign policy issues directly related to ensuring national security; the strategy for ensuring stability and legal order. The Council was to manage all types of crises threatening national security.¹¹

Constitutional amendments of 2013 transferred significant powers to the executive branch. Correspondingly, the Government's role was deepened in planning and coordinating the national security policy. Shortly after, the Prime Minister's deliberative body - the State Security and Crisis Management Council, was established in 2014. The Council was tasked to ensure state security, stability, and legal order.¹² Almost after a year, the revised Constitution that no longer prescribed for National Security Council (active until 2018) entered into force. Hence, on December 16, 2018, the Organic Law of Georgia, "On the National Security Council," was repealed. The Government was determined as the Council's successor.¹³

The Government underwent structural changes to optimize administrative and bureaucratic costs in 2017. The number of ministries was reduced, and respective powers were redistributed.¹⁴ The Parliament considered the reform in an accelerated manner at the Government's request. The amendments were not publicly discussed beforehand.¹⁵ The reform also affected the agencies included in the security system. For instance, a special-purpose state institution - Emergency Management Agency (the 'EMA') - was defined as a successor of the State Security and Crisis Management Council, which ceased functioning.¹⁶

Therefore, the EMA must have been the sole agency acting as the Executive's deliberative body in national security matters between December 2017 – January 2019. All the agencies that had similar mandates were abolished during that time.

The EMA ensured the prevention of emergencies, the readiness of a unified system, emergency preparedness and recovery arrangements, and the implementation of the national plan for civil security tasks.¹⁷ The EMA primarily dealt with civil security matters and natural and man-made disasters, etc.¹⁸ Such competence precludes the coordination of the security system. The fact that the then Law "On Planning and Coordination of the National Security Policy" granted such authority solely to the Government supports the conclusion. The

⁹ Article 99 of the edition of the Constitution of Georgia valid until October 13, 2017.

¹⁰ "The authority of the National Security Council was expanded", Georgian News Agency (GHN), 17.05.2011, available: <https://bit.ly/3Zv8fFY>, accessed: 29.03.2023.

¹¹ Article 2, Organic Law of Georgia "On Amendments to the Organic Law of Georgia on the National Security Council" (repealed on 31.10.2018).

¹² Article 1 of the Ordinance of the Government of Georgia N38, January 6, 2014 "On the Establishment of the State Security and Crisis Management Council and Approval of its Provision" (repealed on 03.04.2015).

¹³ Article 2(1) and Article 3(2) of the Organic Law of Georgia "On Annulment of the Organic Law of Georgia on the National Security Council".

¹⁴ "Amendments in the Government", Georgian Public Broadcaster, available: <https://bit.ly/3JUDV1N>, accessed: 29.03.2023.

¹⁵ "GYLA's statement regarding the planned structural changes in the government", Georgian Young Lawyers' Association, (GYLA), 29.11.2017, available: <https://bit.ly/3zdLn3g>, accessed: 29.03.2023.

¹⁶ Draft Law of Georgia "On the Amendments to the Law of Georgia on the Structure, Powers and Rules of Operation of the Government of Georgia" (N07-2/149; 22.11.2017), available: <https://bit.ly/3nABeuE>, accessed: 29.03.2023.

¹⁷ Ordinance of the Government of Georgia N387, July 31, 2018 "On Approval of the Provision of the Emergency Situations Management Service," Article 1, Paragraph 1 of the Provision of the Emergency Situations Management Service (repealed on 01.05.2019).

¹⁸ Article 3, Law of Georgia "On Civil Security".

Law did not envisage the participation of the EMA at any stage of the planning and implementation of the national security policy.¹⁹ It is worth noting that the legal status of the EMA has changed and since January 2019 – it is the structural unit of the Ministry of Internal Affairs.²⁰

For almost a year, only the Government was responsible for planning and coordinating the security policy via its deliberative body - the EMA. Thus, between January to April 2019, before the creation of the National Security Council (NSC, that is active now), the legislation did not establish specificities about state agencies responsible for coordinating state safety issues on the inter-agency level.²¹

Successful tackling of security challenges necessitates that state institutions act in a coordinated manner. Farther, the state must be reactive but also proactively act on threats it faces. Actions should stem from security policy planning and in-depth analysis of the threats. That becomes impossible without inter-agency coordination.

Accordingly, the chaotic abovementioned structural alterations in the Government completely ignored the vitality of the agency that coordinates the security policy. The fact that no specific institution was tasked with continuous threat assessment and development of a national security policy for more than a year indicates negligence.

1.2. The current arrangement of the National Security Council

To address the highlighted institutional gap, the Government called for amendments – on January 1, 2019, the National Security Council (the ‘NSC’) was established.²² The Council is vital in coordinating and effectively operating the security system. Unlike its predecessors, it has clearly defined tasks.

The Council is the Prime Minister’s deliberative body and is directly subordinated to him/her. The NSC provides information to the Prime Minister on matters threatening national security and envisions policy decisions for the Prime Minister. It is also responsible for planning and coordinating the national security policy.²³ The NSC discusses and analyzes domestic and foreign policies related to national security. The Council must identify and evaluate threats to national security. Accordingly, the Council should formulate recommendations to prevent and eliminate detected threats effectively. Among others, it reviews the issues of deployment, use, and movement of military forces of a foreign country, declaring martial law and state of emergency.²⁴ The Council consists of permanent and invited members.²⁵ Headed by the Prime Minister, members are Ministers of Defense, Internal Affairs, Foreign Affairs, and Finance; the heads of the State Security

¹⁹ Article 19 of the edition of the Law of Georgia “On Planning and Coordination of the National Security Policy” valid until April 2, 2019.

²⁰ Article 3, subparagraph “b” of the Law of Georgia “On Amendments to the Law of Georgia on Civil Security”, available: <https://bit.ly/3ZvGyNn>, accessed: 29.03.2023.

²¹ Article 1, Paragraphs 4 and 5 of the Law of Georgia “On Amendments to the Law of Georgia On Planning and Coordination of the National Security Policy”, available: <https://bit.ly/42VMYsn>, accessed: 29.03.2023.

²² Draft Law of Georgia “On Amendments to the Law of Georgia On Planning and Coordination of the National Security Policy”, (N07-2/293, 13.12.2018) explanatory note available: <https://bit.ly/42QxmPL>, accessed: 29.03.2023.

²³ Article 19¹, Law of Georgia “On Planning and Coordination of the National Security Policy”.

²⁴ *ibid*, Article 19².

²⁵ *ibid*, Paragraph 1 of Article 19³.

Service, the Intelligence Service, and Special State Protection Service; the Commander of the Defense Forces.²⁶ Only the Prime Minister has the discretionary power to freely invite the President or the person entrusted by the President or any other person to the Council's sessions.²⁷ The sessions are convened by the Prime Minister, either on his/her initiative or at the request of a permanent member.²⁸ As a rule, sessions are held once every three months although it is not obligatory.²⁹

Analyses of the NSC's activities indicate no clear state vision about the importance and necessity of this agency. Per agency's official website, the Council met three times during pandemics in 2020. Two sessions dealt with security risks caused by COVID-19,³⁰ and one was devoted to a military confrontation between the Republics of Azerbaijan and Armenia.³¹ The Council met twice in 2021 after the appointment of Irakli Gharibashvili as Prime Minister. While the first session was designated to discuss Georgia's general security challenges,³² the second session was devoted to the issues of updating national-level conceptual documents.³³ An updated version of the National Security Concept was planned to be submitted to the Parliament in February 2022; it was also intended to develop the Threat Assessment Document in the same quarter.³⁴ Instead, the National Security Concept still has to be updated. Consequently, relevant bodies have to use National Security Concept as of 2011.³⁵ The second and last version of the Threat Assessment Document developed by the Council covers only 2015-2018.³⁶ As claimed by the NSC, it has formed a draft of the National Security Concept. Still, the document must be revised and aligned with the current security environment in light of the Russian war in Ukraine.³⁷ The Council refused to issue a draft of the Concept.³⁸ The NSC stated that Threat Assessment Document is actively reviewed, but since the war altered the security threats, some parts of the document must be processed. Only four documents were recently updated in terms of the strategies and action plans. Those valid documents are related to the threats of money laundering and terrorism, integrated border management, cyber security, and the fight against organized crime.³⁹

On March 24, 2023, the Parliament heard Irakli Gharibashvili at the plenary session; The opposition MPs initiated the interpellation. Submitted questions inquired about the conceptual documents of national security

²⁶ *ibid*, Paragraph 2.

²⁷ *ibid*, Paragraph 4.

²⁸ *ibid*, Article 19⁵.

²⁹ *Idem*.

³⁰ "Due to spreading of the new Coronavirus (COVID-19) meeting of National Security Council was held", webpage of the National Security Council, 16.03.2020, available: <https://bit.ly/3nQTEaK>, accessed: 29.03.2023.

"Prime Minister of Georgia Giorgi Gakharia led an extended meeting of the National Security Council", webpage of the National Security Council, 19.03.2020, available: <https://bit.ly/3o0jbyv>, accessed: 29.03.2023.

³¹ "Meeting of the National Security Council of Georgia was held to discuss the renewed armed conflict between the Republics of Azerbaijan and Armenia", webpage of the National Security Council, 03.10.2020, available: <https://bit.ly/3Mw1QHY>, accessed: 29.03.2023.

³² "National Security Council Meeting is Held and Led by the Prime Minister of Georgia", webpage of the National Security Council, 23.06.2021, available: <https://bit.ly/3KLYY8s>, accessed: 29.03.2023.

³³ "Prime Minister, Irakli Garibashvili chaired the session of the National Security Council", webpage of the National Security Council, 13.12.2021, available: <https://bit.ly/3o0jiKr>, accessed: 29.03.2023.

³⁴ *idem*.

³⁵ webpage of the National Security Council, "National Security Concept", available: <https://bit.ly/3nYoPkG>, accessed: 29.03.2023.

³⁶ webpage of the National Security Council, Threat Assessment Document, available: <https://bit.ly/3UpnHCL>, accessed: 29.03.2023.

³⁷ Letter N489 of April 5, 2023, National Security Council.

³⁸ *idem*.

³⁹ *idem*.

and NSC's activities, especially considering the ongoing war in Ukraine.⁴⁰ The Prime Minister answered the question of MP Teona Akubardia regarding the national-level conceptual documents as follows:

"[...] Mrs. Teona Akubardia wants to know about the conceptual documents as, from her point of view, they will create security guarantees for the country and ensure public safety [...] I want to remind people here that the document cannot protect the country; the state will be protected by the right and reasonable policies we are implementing [...] Security Council has processed [...] These are the draft documents, the National Security Concept mentioned by her (MP Theona Akubardia, author.), the Threat Assessment Document, the Defense Strategy [...]. Also, we are actively working on critical infrastructure, which is crucial; we have already made progress. There is already coordination, exchange, and information sharing between agencies. We have repeatedly stated that since the situation in the region has changed, the consequences of the war in Ukraine cannot be predicted [...] by anyone on the face of the earth, anyone. Our partners [...] cannot decisively predict what can happen in Ukraine [...] Nobody knows how the war will end. Today these people (addressing the opposition, author.) want us to develop a Security Concept and identify the threats; I do not know what additional threats might emerge after the war. You do not have the slightest inkling [...] what challenges we are facing".⁴¹

Since Russia's invasion of Ukraine, the NSC met only twice: on November 4, 2022, and on February 28, 2023. The first session "addressed important global and regional security trends";⁴² The session on the anniversary of Russia's full-scale invasion of Ukraine was devoted to the same issues as the earlier session. Additionally, the members of the Council discussed the ongoing military operations.⁴³ No representative of the President was invited to these meetings.⁴⁴

Against the backdrop of globally increased threats and risks, such practices of the Council suggest that the state uses existing tools ineffectively. The country cannot promptly respond to its challenges. The central agency fails to act on its primary duties. The NSC could not design national-level conceptual documents determining the country's threats and risks. The council could not promptly define the security policy in line with the altered global security systems. It still has to draw up the apt strategy and action plans in the areas defined by the legislation and ensure coordinated work of agencies included in the security sector.

2. State Security Service of Georgia

The State Security Service of Georgia (the 'SSS'), equipped with excessive powers, is the most powerful institution of the security system. Until 2015, the competencies of the SSS were distributed among various

⁴⁰ "Irakli Gharibashvili's interpellation hearing began in the Parliament", interpressnews, 24.03.2023, available: <https://bit.ly/40tejA2>, accessed: 29.03.2023.

⁴¹ Prime Minister of Georgia, Irakli Gharibashvili's speech in the Parliament of Georgia, in the manner of interpellation, 24.03.2023, available: <https://bit.ly/3K1W3XA> (at: 12:44:00-12:46:30), accessed: 29.03.2023.

⁴² "The National Security Council held a meeting chaired by Georgian Prime Minister", webpage of the National Security Council, 04.11.2022, available: <https://bit.ly/3KgSFYU>, accessed: 29.03.2023.

⁴³ "Prime Minister of Georgia, Irakli Gharibashvili held and led the meeting of the National Security Council today", webpage of the National Security Council, 28.02.2023, available: <https://bit.ly/3ZT4eeU>, accessed: 29.03.2023.

⁴⁴ Letter N501, April 5, 2023, the Office of the National Security Council.

structural subdivisions of the Ministry of Internal Affairs. Due to the reform, the SSS was separated from the Ministry of Internal Affairs. In particular, the counterintelligence functions were shifted from the Ministry to a newly-established independent agency. Despite the importance of separating the police and security services, the reform failed to develop solid guarantees for democratic oversight and accountability. As a result, there are two high-powered bodies instead of one – with extensive powers, duplicated competencies, and high risks of abusing them.⁴⁵

The primary areas of activities of the SSS to ensure state security are as follows: combating terrorism and other transnational organized and international crimes posing threats to state security; protecting constitutional order, sovereignty, territorial integrity, and military capabilities from unlawful acts of foreign special services and individuals; identifying unconstitutional and forceful changes of the constitutional order and state government.⁴⁶ SSS is also responsible for ensuring the economic security of the country, as well as implementing measures to prevent, identify, and eliminate corruption. For these purposes, the SSS has investigation powers.⁴⁷

The SSS is equipped with numerous powers to achieve the goals set by the legislation. They serve to protect security and legal order. The activities carried out by SSS are of a covert or overt nature. These activities are subjected to different legal regimes:

- Covert investigative activities - regulated by the Criminal Procedure Code;
- Operative-investigative activities - regulated by the Law of Georgia “On Operative-Investigative Activities”;
- Counterintelligence activities - regulated by the Law of Georgia “On counterintelligence activities”;
- Coercive measures - regulated by the Law of Georgia “On the State Security Service of Georgia”;
- Institute of Representative of SSS (Security Officer) - regulated by the Law of Georgia “On the State Security Service of Georgia”.

Covert investigative activities include the covert telephone wiretapping and recording of such communication; the retrieval and recording of information from a communications channel (by connecting to the communication facilities, computer networks, line communications, and station devices), the computer system (both directly and remotely) and installation of respective software in the computer system for this purpose; real-time geolocation identification; the monitoring of a postal and telegraphic transfer (except for a diplomatic mail); video and/or audio recording, photographing; electronic surveillance.⁴⁸ The Operative-Technical Agency of Georgia has the exclusive authority to carry out the abovementioned activities.⁴⁹

⁴⁵ Tamar Samkharadze, Tornike Gerliani, “Secret Surveillance within the Framework of Counterintelligence Activities - Analysis of Institutional and Legal Framework”, Social Justice Center, 2021, pp. 6-7, available: <https://bit.ly/3Y3gx7K>, accessed: 29.03.2023.

⁴⁶ Article 5, Law of Georgia “On the State Security Service of Georgia”.

⁴⁷ *idem*.

⁴⁸ Article 143¹, Criminal Procedure Code of Georgia.

⁴⁹ *ibid*, Paragraph 32 of Article 3.

Operative-investigative activities include overt and covert measures to protect human rights and freedoms, legal entity rights, and public security against criminal and other unlawful encroachments.⁵⁰ Operative-investigative activities are classified, and access to relevant data and documents is given only to specific persons defined by legislation.⁵¹ Operative-investigative measures are: conducting interviews and surveillance; collecting information; conducting test purchases; examining objects and documents; obtaining electronic communication identification data; monitoring Internet communication, etc.⁵²

Counterintelligence measures may be carried out against anyone if legislative criteria are met.⁵³ Such measures aim to detect and prevent threats directed against national interests arising from the intelligence and/or terrorist activities of foreign agents.⁵⁴ The legal regime for special measures is different from the general rule. Operative-investigative measures implemented within counterintelligence activities do not require issuing a judicial order.⁵⁵ There are only two exceptions to this rule - electronic surveillance and monitoring of postal correspondence.

Additionally, to ensure state security at entities posing a high risk to state security, SSS is authorized to appoint its representative to those entities at their request.⁵⁶ The Government approves the list of high-risk entities. Other than state institutions (ministries, municipalities), the list defines state and private companies responsible for critical infrastructure and energy security (hydroelectric plants, ports, railways) as high-risk institutions.⁵⁷ Thus, current legislation just replaced the security officer so-called “ODR”⁵⁸ with concepts of “representative” or “public servant”. Such presence of officers in different entities can interfere with the democratic governance of the country. It is a tool that can easily become an instrument protecting the ruling political regime.

The SSS’s powers and the secrecy of its activities do not leave room for oversight. The interested parties cannot inspect whether the mechanism was used in accordance with the law. Agency’s response to the Social Justice Center’s letter sent in February 2023 can be illustrative. The Social Justice Center requested information about the number of agencies in which the Service has a representative and the total number of individuals who confidentially assisted SSS voluntarily. The agency simply stated that it provides security in high-risk entities. It has no legal obligation to provide additional information, as the measure belongs to the operative-investigative activity.⁵⁹

“ODR” institute was established anew, at least formally. The cooperation agreement between the SSS and high-risk subjects regulates the issue of appointment of the representative of the Service. However, the legislation was silent about dismissing those officers who, before the reform, were state employees and exercised

⁵⁰ Paragraph 1 of Article 1, Law of Georgia “On Operative-Investigative Activities”.

⁵¹ *ibid*, Article 5.

⁵² *ibid*, Article 7.

⁵³ Article 11, Law of Georgia “On counter-intelligence activities”.

⁵⁴ *ibid*, Article 1.

⁵⁵ *ibid*, Article 11.

⁵⁶ *ibid*, Article 22.

⁵⁷ Ordinance of the Government of Georgia N584, November 18, 2015 “On approval of the list of high risk entities for state security”.

⁵⁸ Russian abbreviation for Офицер Действующего Резерва – ОДР (Active Reserve Officer).

⁵⁹ Letter NSSG 9 23 00032011, February 9, 2023, the State Security Service of Georgia.

administrative functions within the same institutions.⁶⁰ Additionally, external oversight mechanisms do not apply to this measure. The court does not verify the legality of the concluded agreements and the actions carried out within its framework. Moreover, the SSS is entitled to refuse to provide the information to the parliamentary Trust Group if it deems that sharing such data with the MPs would be unfitting in the interests of national/public/state security.⁶¹

Political neutrality of SSS and mechanisms of external oversight

Excessive powers necessitate legislative guarantees for the agency's political impartiality and independence. Legislation indeed provides for a multi-step procedure for appointing the Head of the SSS, but the arrangement does not preclude the process from being hijacked by narrow party interests.⁶² Prime Minister single-handedly nominates the candidate, while the Parliament has the final say, but with a simple majority. The legislation does not tackle the risks of politicizing the appointment procedure. That is coupled with the reality that, as a rule, every decision-making party belongs to the governing party. Surely, such practices of appointment reflect the issue of accountability too. On the one hand, as a legislative branch's appointee, the Head is accountable to the Parliament. On the other - s/he is responsible to the Government since s/he leads the special-purpose agency created under the Government's direct authority.⁶³

As a result, the SSS is a centralized institution with a strict hierarchy, where the Head of the Service has practically unlimited powers. The selection-appointment process of the Head of the SSS only superficially contains a democratic component; in reality, the decision is made entirely with political interests in mind. The issue of dismissal of the Head of the Service is also politicized. It is a mechanism of quasi-no confidence, and without legal justification, the Parliament can decide on this issue with a simple majority.⁶⁴ The simple Parliamentary Majority can singlehandedly dismiss the Head of SSS without legal reasoning.⁶⁵

The resolution of the Parliamentary Assembly of the Council of Europe explicitly notes that the risks of abuse of power by security services arise when their powers are preventive and, at the same time, have enforcement methods, including the possibility of using forcible means. Assembly recommends that the security services not be authorized to carry out criminal investigations, arrests, and detentions and not be involved in the fight against organized crime.⁶⁶ The Assembly notes that the sole task of the security services must be protecting national security. The SSS's extensive powers contradict those recommendations. Instead, SSS is responsible

⁶⁰ Mariam Mkhatvari, Gigi Chikhladze et al. "Reform of the Security Service in Georgia: Results and challenges", Social Justice Center, Transparency International-Georgia, 2018, p. 39, available: <https://bit.ly/416mQcr>, accessed: 29.03.2023.

⁶¹ Paragraph 3 Article 159, Rules of Procedure of the Parliament.

⁶² Mariam Mkhatvari, Gigi Chikhladze et al. "Reform of the Security Service in Georgia: Results and challenges", Social Justice Center, Transparency International-Georgia, 2018, p. 19, available: <https://bit.ly/416mQcr>, accessed: 29.03.2023.

⁶³ Article 9, Law of Georgia "On State Security Service of Georgia".

⁶⁴ Mariam Mkhatvari, Gigi Chikhladze et al. "Reform of the Security Service in Georgia: Results and challenges", Social Justice Center, Transparency International-Georgia, 2018, p. 21, available: <https://bit.ly/416mQcr>, accessed: 29.03.2023.

⁶⁵ *idem*.

⁶⁶ PACE Recommendation 1402 (1999) Control of internal security services in council of Europe member states, Paragraphs 5-6.

for all stages of criminal investigation proceedings. The power to fight against corruption is incompatible with the secretive nature of the agency's activities since the standard of transparency is greatly threatened.⁶⁷

SSS has the authority to carry out counterintelligence activities too. In addition, the Service still has investigative functions for specific crimes,⁶⁸ leading to the agency's dual nature. This problem is compounded by the fact that the internal control mechanism of the security service is weak. In particular, there is no effective mechanism for citizens to appeal to the General Inspection of SSS. Besides, it is impossible to appeal the conclusion of the General Inspection. The address of the General Inspection does not oblige the Head of the SSS to initiate disciplinary proceedings.⁶⁹ External oversight over this agency is also ineffective and insufficient. Many covert activities by the SSS, characterized by intense interference in private life, remain beyond judicial supervision.⁷⁰ Among others, such activities are covert video and audio recording, filming and photography for counterintelligence purposes, use of television cameras and other types of electronic devices, strategic or individual monitoring measures, agreed electronic surveillance (with the written consent of one of the parties of the communication) and infiltrating a secret collaborator or an operative into a criminal group.⁷¹

Parliamentary oversight mechanisms are relatively weak too. The Defense and Security Committee and the Trust Group set up in the mentioned Committee exercise parliamentary oversight over all the agencies in the security sector, including the SSS. The Trust Group comprises five members: two members of the faction(s) included in the parliamentary majority, two members of factions included in the parliamentary opposition, and an ex officio member - Chairperson of the Defence and Security Committee who chairs and represents the Trust Group.⁷²

The trust group effectively replicates the Committee's jurisdiction by adding that its members have access to classified information.⁷³ In reality, the access of the Trust Group to the data relating to the activities of the SSS and its subordinated agencies is quite limited. For instance, the Trust Group is not entitled to request information on the covert forms and methods of activity, including such normative acts. Trust Group cannot inquire about the activities of the Operative-Technical Agency either.⁷⁴ In addition, given the interest in protecting national/public/state interests, SSS is authorized to refuse to provide information related to pending cases and measures.⁷⁵ The regulation of the Trust Group is also problematic - the rules of procedure do not determine the periodicity of its sessions. Sessions are held as necessary; The sole person who can convene a session is the Chairman. If other members of the Trust Group deem it appropriate to convene a session, s/he

⁶⁷ "Independent Anti-Corruption Agency – Georgia and International Standards", 2017, IDFI, available: <https://bit.ly/3zHUXf1>, accessed: 29.03.2023.

⁶⁸ Paragraph 2 of Article 12, Law of Georgia "On State Security Service of Georgia".

⁶⁹ Mariam Mkhatchvari, Gigi Chikhladze et al. "Reform of the Security Service in Georgia: Results and challenges", Social Justice Center, Transparency International-Georgia, 2018, p. 95, available: <https://bit.ly/416mQcr>, accessed: 29.03.2023.

⁷⁰ *ibid*, p. 79.

⁷¹ *ibid*, p. 70.

⁷² Article 157, Rules of Procedure of the Parliament.

⁷³ Vakhushti Menabde et.al "The Parliamentary Oversight Since the Rules of Procedure Reform", Georgian Young Lawyers Association (GYLA), 2020, p. 59, available: <https://bit.ly/43mJsXO>, accessed: 29.03.2023.

⁷⁴ *ibid*, p. 63.

⁷⁵ Paragraph 3 of Article 159, Rules of Procedure of the Parliament of Georgia.

must have the support of the majority of the members.⁷⁶ In sum, the legislation entitles the Parliamentary Majority to be represented by three members in the Trust Group, as the Committee's Chairman usually acts for the ruling party. Therefore, while the ineffective and weak parliamentary oversight tools increase the risks of abusing powers, the composition of the Trust Group cannot ensure proper oversight since the MPs of the Parliamentary Majority influence the decision-making.⁷⁷

2.1. LEPL Operative-Technical Agency

The Operative-Technical Agency (the 'OTA') is a LEPL within the SSS. It is a special-purpose body with special status, entitled to obtain factual data on criminal cases or actions aimed against the constitutional order, sovereignty, territorial integrity, military capabilities, legal order, state defense, and the military of Georgia.⁷⁸ The OTA uses special technological means and covert methods to accomplish its mission. The OTA is authorized to carry out such measures as covert wiretapping and recording telephone communications; retrieving and recording information from a communications channel; real-time geolocation identification; covert video and/or audio recording, etc.⁷⁹

As the Constitutional Court of Georgia explicitly noted, the SSS is a body professionally interested in obtaining and processing information. The Court ruled that such accumulation of unlimited and unbalanced technical capabilities of data in the hands of the Service was itself the risk for abusing powers.⁸⁰ The creation of the OTA within the SSS cannot ensure these risks.⁸¹ The fact that SSS carries out the oversight over the OTA is coupled with the rule that before submitting the report to the Prime Minister (to whom s/he is directly accountable), the Head of the OTA must first present it to the Head of the SSS.⁸²

Again, the procedure for appointing the Head of this Agency is politicized too. The legislative multi-step process does not guarantee neutrality. The Head of OTA is appointed by a special commission upon the Prime Minister's recommendation. However, these three candidates are presented by the Head of the SSS.⁸³ The composition of the special commission also causes problems. The special commission has seven members. The ruling party, generally, has five votes out of seven. In particular - three chairpersons of various Parliamentary Committees, one government representative, and the Head of the SSS. That arrangement excludes the appointment of a candidate the party might not welcome. The problem is compounded by the legislation's

⁷⁶ *ibid*, Article 158.

⁷⁷ Tamar Samkharadze, Tornike Gerliani, "Secret Surveillance within the Framework of Counterintelligence Activities - Analysis of Institutional and Legal Framework", Social Justice Center, 2021, pp. 7-10, available: <https://bit.ly/3Y3gx7K>, accessed: 29.03.2023.

⁷⁸ Article 7, Law of Georgia "On Legal Entity of Public Law - Operative-Technical Agency of Georgia".

⁷⁹ Article 143¹, Criminal Procedure Code of Georgia.

⁸⁰ Judgment 141/1/625,640 of the Constitutional Court of Georgia of 14 April 2016 in the case of "Public Defender of Georgia, citizens of Georgia - Giorgi Burjanadze, Lika Sajaia, Giorgi Gotsiridze, Tatia Kinkladze, Giorgi Chitidze, Lasha Tugushi, Zviad Koridze, Open Society Georgia Foundation, Transparency International Georgia, Georgian Young Lawyers Association, International Society for Fair Elections and Democracy and Human Rights Center v. Parliament of Georgia"

⁸¹ Tamar Samkharadze, Tornike Gerliani, "Secret Surveillance within the Framework of Counterintelligence Activities - Analysis of Institutional and Legal Framework", Social Justice Center, 2021, p. 10 available: <https://bit.ly/3Y3gx7K>, accessed: 29.03.2023.

⁸² Article 29, Law of Georgia "On Legal Entity of Public Law - Operative-Technical Agency of Georgia"

⁸³ *ibid*, Article 19.

silence on the procedure or criteria for selecting candidates to be presented to the special commission. The dismissal rule of the Head of TAO can also indicate the low degree of the agency's independence. The term of office of the Head of the Agency can be terminated early. Upon the submission of the Head of SSS, the Prime Minister can dismiss the Head of TAO depending on a general basis as the improper performance of the duties.⁸⁴

Where the Agency's ability of surveillance abilities over citizens is so extensive, external oversight mechanisms are vital. The legislation provides an ineffective tool for oversight over OTA. It is the Trust Group that exercises control over for Agency's activities. As a general rule, upon the Trust Group's request, agencies must submit all information necessary for the Trust Group to exercise powers in a non-delayed manner. However, Agency is an exception to this rule. The Head of the OTA has to submit only the statistical and generalized annual report to the Trust Group.⁸⁵ The Trust Group's right to visit and inspect the Agency (max. twice a year) cannot provide for an effective oversight mechanism. Inspection visits are not unexpected; the decision of the Trust Group to visit/inspect is sent to a relevant agency beforehand.⁸⁶

Judicial oversight applies to the activities of the OTA related to the restriction of privacy rights and the rights of inviolability of messages received by technical means.⁸⁷ The list of measures shielded from judicial control is identical to SSS. Risks of arbitrariness are high. Activities conducted within the framework of covert counterintelligence activities are subject to oversight by the Supreme Court.⁸⁸ The oversight is limited to monitoring specific electronic surveillance measure's progress and analyzing the data submitted upon request. Neither the judge nor any other body is authorized to inspect the agency's technical infrastructure, software, and technical instructions. Restricted areas of the agency, control compliance with the rules of storage, processing, and destruction of data obtained via electronic surveillance are beyond the oversight.⁸⁹

Besides the judicial and parliamentary oversight, the State Audit and Personal Data Protection Service supervise the agency's activities.⁹⁰ The former controls the use and spending of state budget funds and other material assets of the state by OTA.⁹¹ Latter monitors covert investigative actions and the activities carried out in the electronic data identification central bank.⁹² Personal Data Protection Service examines the legality of processing data obtained via wiretapping and recording.⁹³

Such institutional arrangement and broad competencies of the agencies included in the security sector usually result in the instrumentalization of institutions. There are way too many examples of that in Georgia. On September 12, 2021, information was spread through Georgian media outlets regarding the alleged illegal mass surveillance of civil activists, representatives of religious and civil organizations, journalists, politicians,

⁸⁴ *idem*.

⁸⁵ Paragraphs 2 and 9 of Article 159, Rules of Procedure of the Parliament.

⁸⁶ *ibid*, Paragraph 11.

⁸⁷ *ibid*, Article 27.

⁸⁸ *ibid*, Article 26.

⁸⁹ Tamar Samkharadze, Tornike Gerliani, "Secret Surveillance within the Framework of Counterintelligence Activities - Analysis of Institutional and Legal Framework", Social Justice Center, 2021, pp. 24-25, available: <https://bit.ly/3Y3gx7K>, accessed: 29.03.2023.

⁹⁰ Articles 28 and 30, Law of Georgia "On Legal Entity of Public Law - Operative-Technical Agency of Georgia".

⁹¹ *idem*.

⁹² Article 14¹⁶, Law of Georgia "On Personal Data Protection".

⁹³ *idem*.

diplomats, and others. The scope of the malpractice of illegal surveillance is large. That is directly caused by the legislative framework and institutional arrangement. On the one hand, the SSS is equipped with excessive and unbalanced powers, and, on the other hand, no guarantees of adequate oversight mechanisms are in place.⁹⁴

3. Georgian Intelligence Service

The legislation differentiates between intelligence and counterintelligence activities. Intelligence activities are carried out to protect the national interests of Georgia from foreign threats. Such activities are acquiring, processing, analyzing, and realizing information about foreign threats; and support for implementing the country's strategic course in national security and defense.⁹⁵ Those activities are carried out by various agencies. Among them are the relevant structures of the Ministries of Defense and Internal Affairs.⁹⁶ The Georgian Intelligence Service (the 'GIS') conducts intelligence and foreign counterintelligence activities. Those activities go beyond the country's borders and ensure the safety of the persons who possess data containing state secrets.⁹⁷

The GIS is a special-purpose institution of executive authority directly subordinate to the Prime Minister.⁹⁸ The GIS carries out its competencies in political, economic, scientific and technical, informational, and ecological fields and participates in the international fight against terrorism within the limits of its competence.⁹⁹ The primary goals of the activities of the GIS are to define foreign threats and risks; to provide necessary intelligence data to the country's state and political officials for them to make decisions within their competence.¹⁰⁰ The primary goals of the agency's activities are to define foreign threats and risks and provide necessary intelligence information to the country's state and political officials for them to make decisions.¹⁰¹ The relevant bodies use different methods to achieve these goals, including operative, operative-technical, engineering-technical, radio-electronic, etc.¹⁰² Operative-investigative and counterintelligence activities are also used.

The guiding document for the activities of the GIS is a National Security Strategy, based on which the main goals of intelligence activities and other essential issues are determined.¹⁰³ Besides, the National Intelligence Program is based on conceptual security documents; therefore, for the Service to exercise its powers, it is crucial to guide with updated documents that align with current challenges. As discussed in the previous chapters, the National Security Concept entered into force in 2011, while the Threat Assessment Document was valid up to

⁹⁴ "The government uses the SSS as a total control mechanism", Statement of Civil Society Organizations, 02.08.2021, available: <https://bit.ly/42WZGGX>, accessed: 29.03.2023.

⁹⁵ Articles 1 and 2, Law of Georgia "On Intelligence Activities".

⁹⁶ *ibid*, Article 7.

⁹⁷ *ibid*, Article 3.

⁹⁸ Article 2, Law of Georgia "On the Georgian Intelligence Service".

⁹⁹ *ibid*, Article 3.

¹⁰⁰ *ibid*, Article 4.

¹⁰¹ *ibid*, Article 4.

¹⁰² *ibid*, Article 10.

¹⁰³ *ibid*, Article 3.

2018. Accordingly, it is impossible to determine how the GIS develops a strategy and implements intelligence and foreign counterintelligence activities in 2018-2023.

The Head of the GIS is appointed and may be dismissed by the Prime Minister.¹⁰⁴ The Prime Minister supervises the activities of the GIS at the state level. The Head of the Service is accountable to him.¹⁰⁵ The law does not define the grounds for dismissal of the Head of the Service. The Prime Minister singlehandedly decides on that issue. Such an arrangement cannot ensure the political neutrality of the GIS. The activities of GIS are entirely classified.¹⁰⁶ The parliamentary oversight is weak, further increasing the risks of the institution's arbitrariness. Like other agencies in the security sector, the GIS is overseen by the Defense and Security Committee through the Trust Group. The agency submits an annual report on covert activities and special programs to the Group. It is problematic that there is no legal obligation for the Head of the GIS to be heard in the plenary session. That significantly affects the ability to control his activities and adds a second-class quality to this accountability mechanism.¹⁰⁷

4. The Special State Protection Service

The Head of the Special State Protection Service (the 'SSPS') is a permanent member of the National Security Council. Unlike the agencies discussed earlier, the SSPS is a special-purpose militarized institution directly subordinated to the Government that ensures state security.¹⁰⁸ Its primary function is to provide physical protection to the branches of state authority and their officials against illegal encroachments.¹⁰⁹ The objective of the Service is to protect President, officials of the supreme legislative, executive, and judicial bodies, high-ranking officials of foreign countries visiting Georgia, and other important personas.¹¹⁰ Although the legislation defines the list of SSPS subjects, there is quite a long list of exceptional cases. The Government may oblige the SSPS to provide personal security for various persons. The legislation specifies the sole basis - the threat to the life and health of a person or their family members, about which data or information is received from relevant services.¹¹¹

The SSPS is authorized to use operative-investigative and operative-technical measures to carry out the objectives effectively. In addition, service employees are entitled to use coercive measures and special equipment, including service firearms.¹¹²

¹⁰⁴ Article 9, Law of Georgia "On the Georgian Intelligence Service".

¹⁰⁵ *ibid*, Articles 6 and 26.

¹⁰⁶ *ibid*, Article 2.

¹⁰⁷ Vakhushti Menabde et.al "The Parliamentary Oversight Since the Rules of Procedure Reform", Georgian Young Lawyers Association (GYLA), 2020, p. 102, available: <https://bit.ly/43mJsXO>, accessed: 29.03.2023.

¹⁰⁸ Paragraph 1 of the Article 1, Law of Georgia "On the Special State Protection Service of Georgia"

¹⁰⁹ *ibid*, Paragraph 2.

¹¹⁰ *ibid*, Article 4.

¹¹¹ *ibid*, Article 5.

¹¹² *ibid*, Articles 9 and 12.

The Head of the SSPS is appointed and may be dismissed by the Prime Minister.¹¹³ The Government approves the program of activities of the Service.¹¹⁴ The agency is subject to the mechanism of parliamentary oversight per the general procedures of the Trust Group. The actions and management of the Head of the SSPS are entirely subjected to the Prime Minister. That increases the risks of arbitrariness and politicization of the agency by the executive power.¹¹⁵

5. Ministry of Defense of Georgia

An institution of the executive government – the Ministry of Defence of Georgia, is a critical entity in the security system and the National Security Council.

The Ministry is headed and managed by the Minister of Defence.¹¹⁶ Ministry is responsible for building up the defense forces; ensuring combat and mobilization of the defense forces; strengthening the fighting ability; repelling any encroachment on independence and possible aggression.¹¹⁷

The functions of the Ministry include the development and management of the state defense policy; protection of territorial integrity; military intelligence activities; prediction and assessment of the threats of war and other military threats, etc.¹¹⁸ The Ministry uses operative, intelligence, counterintelligence, investigative, and law enforcement actions to fulfill the assigned functions.¹¹⁹

The Defense Forces have a Commander who is a permanent member of the National Security Council. The Commander is appointed and may be dismissed by the President on the recommendation of the Government.¹²⁰ Accordingly, s/he is accountable to the Minister, the Prime Minister, and the President.¹²¹ Its primary function is to prepare military-strategic and operative-tactical plans for the use of defense forces. He submits proposals and recommendations to the Minister on various defense-related issues.¹²²

The activities of the Ministry of Defense are subject to the general rules of parliamentary oversight for the security sector and the government, such as oversight of the activities by the Trust Group, ministerial hours, and interpellation.¹²³

¹¹³ *ibid*, Article 7.

¹¹⁴ *ibid*, Article 18.

¹¹⁵ Vakhushti Menabde et.al “The Parliamentary Oversight Since the Rules of Procedure Reform”, Georgian Young Lawyers Association (GYLA), 2020, p. 106, available: <https://bit.ly/3lYoiP0>, accessed: 29.03.2023.

¹¹⁶ *ibid*, Article 3.

¹¹⁷ Ordinance of the Government of Georgia N580, December, 12, 2018 “On Approval of the Regulations of the Ministry of Defence of Georgia”, Article 1 of the Regulations of the Ministry of Defence of Georgia.

¹¹⁸ *ibid*, Article 2.

¹¹⁹ *idem*.

¹²⁰ *ibid*, Article 7.

¹²¹ *idem*.

¹²² *Idem*.

¹²³ Articles 149, 153, 154 and 156, Rules of Procedure of the Parliament.

6. Ministry of Internal Affairs of Georgia

The Ministry of Internal Affairs (the 'MIA') has lately undergone many departmental and institutional reforms. The Ministry's status as a militarized institution has changed. Currently, the MIA implements preventive and crime response measures.¹²⁴

The Ministry is accountable to the Government and the Parliament. The MIA performs the tasks provided for by the law or assigned by the Government and the Prime Minister. The agency is based on the principle of unity of command and is headed by the Minister of Internal Affairs.¹²⁵

Despite the reform of 2015 and MIA's separation from the State Security Service (counterintelligence, counterterrorism, and security of constitutional order), the agency still has quite wide-ranging powers. MIA's competencies are protecting public safety and order, detecting and preventing crime and other legal violations, investigating and analyzing, and protecting the state border.¹²⁶ In the context of security, the Ministry's duties are to fight against crime and its prevention, preserve public order and security, fight against illegal migration, ensure safety and control of the state border and maritime space, control the legal circulation of weapons, development of strategic and planning documents on issues belonging to the sphere of public safety and legal order, the highest officials of the state authorities.¹²⁷

The Minister's excessive and virtually unlimited powers regarding the agency's administration and the performance of police functions are troublesome. The Minister essentially defines and implements the personnel policy of the agency and makes decisions on administrative issues. S/he is the highest-ranking police official and, in many cases, decides on individual police measures.¹²⁸ In such conditions, the risks of politicizing and instrumentalizing the agency for political purposes increase significantly, threatening the adequate performance of security-related functions and human rights protection.

Various normative acts regulate external oversight of the MIA. External oversight can be carried out by the judiciary, Parliament, personal data protection services, prosecutors, and other departments. The Minister of Internal Affairs is also accountable to the Parliament.

7. Ministries of Foreign Affairs and Finance of Georgia

The primary function of the Ministry of Foreign Affairs (the 'MFA') is the state-level management and coordination of Georgia's relations with foreign states and international organizations.¹²⁹ The MFA is headed

¹²⁴ Ordinance of the Government of Georgia N337, December, 13, 2013 "On Approval of the Regulations of the Ministry of Internal Affairs of Georgia", Article 1 of the Regulations of the Ministry of Internal Affairs of Georgia.

¹²⁵ *ibid*, Article 2.

¹²⁶ *ibid*.

¹²⁷ *ibid*, Article 4.

¹²⁸ „Reforms in the Law Enforcement System“, Social Justice Center, 17.09.2020, available: <https://bit.ly/419iNvV>, accessed: 30.03.2023.

¹²⁹ Ordinance of the Government of Georgia N206, November, 6, 2005 "On Approval of the Regulations of the Ministry of Foreign Affairs of Georgia", Article 1 of the Regulations of the Ministry of Foreign Affairs of Georgia.

by the Minister of Foreign Affairs, a permanent National Security Council member. The Minister of Foreign Affairs, too, is appointed and dismissed by the Prime Minister.¹³⁰

The MFA has quite multi-faceted tasks that include security issues as well. The primary function of the MFA is to protect sovereignty, territorial integrity, security, and state interests while conducting international relations.¹³¹ In addition, the Ministry is involved in developing measures to ensure defense and security in Georgia, strengthening international peace and global and regional security.¹³² Structural units of the MFA develop policy documents, concepts, and strategies on such essential issues as conflict prevention, de-occupation, security, and human rights protection in the occupied regions, effective use of international tools for ensuring peaceful conflict resolution, and effective international involvement in these processes.¹³³ The Ministry is one of the vital agencies responsible for the Euro-Atlantic integration. Accordingly, one of its main tasks is to promote and coordinate the process of integration into NATO.¹³⁴ In addition, the MFA's Department of Modern Security Challenges and Arms Control must also analyze the circumstances related to modern security challenges and develop appropriate recommendations.¹³⁵ Besides, the MFA is involved in developing national-level conceptual documents within the framework of the National Security Council.

Even though the Ministry of Finance primarily exercises governance in the financial-budgetary, tax, and customs fields, it has essential competencies in the security system. The Ministry exercises preventive operative-investigative measures and investigates economic crimes. The Ministry promotes introducing information security systems in the Ministry and other state agencies.¹³⁶

The Ministry is headed by a Minister whose appointment and dismissal are the prerogative of the Prime Minister.¹³⁷ His responsibility and accountability issues are similar to those of other cabinet members.

As members of the Cabinet, the Ministers of Foreign Affairs and Finance are accountable to the Prime Minister and Parliament. They provide information about their activities during interpellation and ministerial hours. While they are part of the National Security Council, the oversight mechanism of the Trust Group does not apply to them.

Conclusion

In light of Georgia's regional and global challenges, it is concerning that the national-level conceptual documents - the National Security Concept, the Threats Assessment Document, and the relevant strategies are outdated and cannot respond to emerged challenges. The agencies involved in the security sector must set the priorities of their activities per these documents. Therefore, it is unclear what their strategies are based on when exercising intelligence, counterintelligence, or other types of powers. Despite the reforms, the institutional arrangement of the security sector agencies remains an unsolved challenge. The appointment and dismissal procedures of heads of agencies are politicized, even where the process is multi-stage and the legislative body is involved. The levers of decision-making are still in the hands of the Parliamentary Majority

¹³⁰ *ibid*, Article 4.

¹³¹ *ibid*, Paragraph "e" of the Article 2.

¹³² *ibid*, Paragraphs "c" and "i" of the Article 3.

¹³³ *ibid*, Subparagraph "a" of the Paragraph 1 of the Article 7.

¹³⁴ *ibid*, Paragraph "b.a".

¹³⁵ *ibid*, Paragraph "b.b".

¹³⁶ *ibid*, Article 3.

¹³⁷ Ordinance of the Government of Georgia N168, March 31, 2017 "On Approval of the Regulations of the Ministry of Finance of Georgia", Article 1 of the Regulations of the Ministry of Finance of Georgia.

and the Prime Minister. The grounds for the dismissal of heads of agencies are vague too. Such excessive powers in the hands of the reviewed institutions may become the tool for restricting fundamental human rights. In such conditions, it is of utmost importance to have strong democratic - judicial, and parliamentary oversight mechanisms in the sector. The document indicates that the current legislation leaves many areas of the agencies; activities beyond judicial control. The parliamentary Trust Group, with limited access to the activities of the security system agencies, cannot ensure accountability and is also an ineffective mechanism for oversight. The existing institutional arrangement increases the risks of politicizing the security system, creating the danger of arbitrary use of the levers in the hands of the agencies and unjustified interference in human rights.