



## Transparency International (TI) Georgia Responds to the Inter-agency Task Force's Rebuttal about the Misuse of Administrative Resources

26 April, 2010, Tbilisi, Georgia

The following is a response by TI Georgia to the Government of Georgia's Inter-agency Task Force (IATF) commentary<sup>1</sup> of 21 April 2010 on its report on the abuse of administrative resources released on 29 March 2010<sup>2</sup>. In its commentary the IATF addressed TI Georgia's election campaign monitoring findings point by point and after providing its explanation of these findings concluded that there had been no abuse of administrative resources except one possible case of a government official in Zugdidi engaging in the pre-election campaign against the law. The IATF assured that it would investigate this case and act accordingly.

TI Georgia values this kind of engagement on the part of the Government of Georgia. This is a significant improvement over the past elections. We have been monitoring the abuse of administrative resources since the 2006 local elections and this was the first time that the government provided detailed feedback on our assessment.

The upcoming local elections of 30 May are seen as a test for Georgia's democracy and for its commitment to join the Euro-Atlantic community. It is therefore of vital importance for these elections to be free and fair. TI Georgia is committed to assisting the Government of Georgia, the Central Election Commission (CEC), and other parties involved in the elections in achieving this goal.

In this document we respond to the government's feedback following the format numbering of the IATF, but we also propose the IATF to move this cooperation to next level through engaging TI Georgia and other election monitoring organizations more pro-actively, at the earlier stages of the policy making related to the electoral process.

### 1. Transfers from State Budget to Local Budgets

The IATF states that the information introduced in TI Georgia's report on the amount of transfers from the state budget to the regions in 2010, and the percentage increase in this amount compared to the 2009 figure (34% increase) are incorrect. According to the group, in 2010 the total amount of regional transfers was GEL 967.9 million; in 2009 it was GEL 847.2 million, and hence the increase was only 14%.

The figures given by the IATF in its response do not correspond to the Laws of Georgia on 2009 and 2010 State Budgets. According to the 2010 State Budget of Georgia<sup>3</sup> posted on the Ministry

<sup>1</sup>Inter-agency Task Force, *Response to the Transparency International Report on the Use of Administrative Resources during the May 30, 2010 Campaign*, <http://www.civil.ge/files/files/IATF-Response-to-TI-Statment.pdf>.

<sup>2</sup>TI Georgia, *Use of Administrative Resources for Campaigning Purposes*, <http://transparency.ge/en>

<sup>3</sup>Law of Georgia on 2010 State Budget, <http://www.mof.gov.ge/4069>;  
[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=3889](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=3889).



of Finance and Parliament official websites, the funding provided to the regions in this year is GEL 836.9 million. The 2009 State Budget<sup>4</sup> posted on the same websites states that the total amount of funding provided to the regions was GEL 622.5 million, and not 847.2 as mentioned in the IATF's document.

This supports TI Georgia's finding that the difference in the amount of transfers between the years 2009 and 2010 is GEL 214.4 million, or 34.4%.

*Transfers to local self-governments (in thousand GEL), 2007-2010<sup>5</sup>.*

	2007	2008	2009	2010
<b>Balanced</b>	13,233.0	320,982.0	276,616.2	522,553.0
<b>Aimed</b>	1,651.3	10,943.5	14,710.8	10,318.7
<b>Special</b>	28,978.2	154,392.1	280,937.4	304,937.4
<b>Total</b>	43,862.5	486,317.6	622,496.4	836,934.0
<b>Increase %</b>	-	1,008.7	28.0	34.4

## 2. Tbilisi Budget Expenditures

TI Georgia's 29 March report puts 2010 balance transfers to Tbilisi's municipal budget from the state budget at GEL 323.0 million, and to all other municipal budgets, at GEL 522.6 million. Correspondingly, Tbilisi balance transfers amount to 61.8% of total balance transfers to municipal budgets. The IATF claims that TI Georgia's numbers are not accurate; the total amount of 2010 transfers amounts to GEL 967.9 million and the total amount to Tbilisi is GEL 521.0 million (53.8%). Not only do we not know the source of the IATF's figures, but these figures include all total transfers (balance, aimed and special), not just balanced transfers, about which TI Georgia commented.

TI Georgia's figures were once again sourced from the Tbilisi 2010 Budget posted on the Ministry of Finance and Parliament websites. The IATF document does not specify its sources. Thus, we are unable to identify the reason for the discrepancies between their and our amounts.

Concerning the number of Tbilisi mayor's office employees, TI Georgia did indeed err; the difference in the number of employees between 2009 and 2010 is 320, not 410 as mentioned in our report. However, the IATF's claim that the Mayor's office staff only increased by five employees is not correct either.

TI Georgia's error stems from the changes made to the 2010 Tbilisi budget on 22 February 2010. According to this change, the number of employees in the Architect Service was to be 112. The Architect Service was integrated into the Mayor's office in 2009, not in 2010 as stated by the

<sup>4</sup>Law of Georgia on 2009 State Budget, [http://www.mof.gov.ge/budget/by\\_year/2009;](http://www.mof.gov.ge/budget/by_year/2009;)  
[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=3455](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=3455).

<sup>5</sup>State Budget Law, Ministry of Finance [www.mof.ge](http://www.mof.ge) and Parliament of Georgia [www.parliament.ge](http://www.parliament.ge)



IATF, but in 2009 the Mayor's office failed to show this change in the budget. This was corrected only in February of 2010 through the February 22 budget amendment. In 2009 the Architect Office employed 90 persons, in 2010 it employs 112.

The IATF's document asserts that one of the reasons for the overall increase of the Mayor's office staff was the legal amendment which changed the status of contractual employees to full-time staffers. The Law on 2010 State Budget the status was unchanged, art.23 claimed, that contractual workers should not exceed 2%. In this regard we must to note that generally, the number of employees in the budgets always reflected both contractual and full-time staffers alike and thus, changing the status of 143 contracted employees to full-time staffers should not have changed the total number of the Mayor's office employees.

For this reason, TI Georgia maintains that the number of employees increased significantly (by 320) from 2009 to 2010.

### **3. The Rural Aid Program**

TI Georgia's report noted that the rural aid doubled in 2010 compared to 2009. The IATF responded that the change in the rural aid program was the result of political consultations between the parliamentary opposition and the ruling party, as the parliamentary opposition demanded several times that the government increase the funds allocated for agricultural projects.

TI Georgia's commentary was not about the rationale of such projects though. Our concerns were connected with the Government's decree<sup>6</sup> ordering municipalities to procure the necessary services and products through negotiations with a single contractor (sole source procurement) in order to expedite the projects.

The Rural Aid program normally provides funding for local infrastructure development and the resolution of other economic problems in rural areas. Apart from some minor exceptions, this type of work cannot be categorized as an emergency response. It would therefore be advisable that these procurements be channeled through competitive and open tenders.

The Government funded the Rural Aid program last year, a non-election year, as well but back then it did not order municipalities to procure services through sole source procurement. The current decision to implement the activities in this manner raises suspicions that there is an urgency to complete the work prior to the 30 May elections.

### **4. Growth in Expenditures of Governors' Administrations**

TI Georgia's report stated that, compared to the previous year, the number of employees of state governors' administrations and correspondingly their salary funds have increased significantly in 2010 (by 79% and 104% respectively). According to the IATF, this was due to the amendment

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<sup>6</sup> Georgian government's Decree #41 "On Allocation of Funds for Local Self-Government Entities from Georgian State Budget under Rural Aid Programme", 13 January 2010.



passed to the Law of Georgia on Protecting People and Territories from Natural and Man-Made Emergencies on 31 July 2009, in the aftermath of the 2008 war with Russia. As a result regional governors were given the task of coordinating the municipalities' efforts to mitigate potential disasters.

After the adoption of the 31 July of 2009 legal amendment, the Parliament of Georgia passed changes to the 2009 State Budget of Georgia twice: on 7 November 2009 and on 12 December 2009. No changes were made to the size of governors' administrations then. The governors were given additional GEL 1 million for employing new people in February 2010, just three months prior to the 30 May elections.

## 5. Funding for Social Programs

TI Georgia's report criticized the government for its erratic, as opposed to consistent, social assistance prior to the elections and brought the examples of increased pensions in Tbilisi (by GEL 10), granting transport cards to the 167,271 Tbilisi pensioners, and spending GEL 4 million on distributing free medical vouchers to the pensioners. The report also said that the similar activities were carried out prior to the 2006 local elections as well.

The IATF responded that the Government's policy is in general socially oriented and that providing social assistance to pensioners is the continuation of past years' trends. Yet, the IATF document itself says that the Tbilisi pensioners were provided with additional financial aid in 2003-2004 and then in 2006 (election year) until September of 2007. This assistance was absent in the 2008 and 2009 local budgets, and was re-introduced in the 2010 budget.

The IATF disagreed with TI Georgia's statement that the decision by the Tbilisi mayor's office to increase the pensions in Tbilisi was at odds with the Georgian legislation and cited the Organic Law of Georgia on Local Self-Governance, Article 16. Article 20 of the Law on State Pensions states that the source of pensions should be from state budget, not from a local one. The Organic Law on Local Self-Governance and its Article 16 only mentions mobilizing resources within the framework of social security, drafting and enacting relevant activities (i.e. creating a safe environment for human health and identifying the risk-factors for health) and informing public about it (Article 16.2.s). This does not include raising pensions.

### Medical Vouchers

There were no funds allocated for medical vouchers in 2007 in Tbilisi, while in 2008 (an election year) there was GEL 1.69 million. In 2009 (a non-election year) GEL 0.015 million was allocated for this purpose. In 2010 (an election year) this amount increased to GEL 3.0 million.

### Different Social Expenses

The IATF feedback claimed that, contrary to TI Georgia's statement, the Mayor's office carried out social programs not only during election years, but in non-election years as well and gave the



lists of social programs carried out in 2007 and 2009 (non-election years).

Indeed, there were a number of social programs implemented in these years and TI Georgia does not deny this, however, it is interesting to look not only at the titles of the funded social programs, but also on the total amounts allocated for these programs in different years. The IATF did not show these amounts in its document. These numbers are presented below:

*Different social expenses from the Tbilisi Budget (thousand GEL), 2007-2010<sup>7</sup>.*

	2006	2007	2008	2009	2010
<b>Social assistance</b>	15,225.8	12,489.0	54,848.7	58,461.3	121,592.4
<b>Incl.</b>					
<b>Pension raise to Tbilisi pensioners</b>	4,000.0	8,950.0	0.0	0.0	20,200.0

## General Note

TI Georgia welcomes the government's efforts to prevent the use of administrative resources for campaigning purposes by restricting budget changes after the date of the election is officially determined and until the announcement of the final results (amendment passed to the Election Code of Georgia in December 2009).

According to the Unified Election Code of Georgia, the date is designated by the President of Georgia. The President did not announce the date of the 2010 local elections until 30 March 2010, the latest date possible that is still in accordance with the law, i.e. 60 days prior to elections. However, the date of local elections had been known since July of 2009, when the President made his first public statement about the plan to hold early local elections in May.

This left adequate time for the necessary budget changes before the deadline. In March of this year alone, prior to the deadline, 41 out of 69 municipalities pushed through 44 amendments to their local budgets. A similar trend was noticeable in the previous months as well.

## Conclusion

On 8 April 2010, the CEC signed a Memorandum on the Use of Administrative Resources in the 2010 Elections<sup>8</sup> of understanding with five local NGOs about the use of administrative resources during the 2010 elections. The memorandum provides explanations of the Election Code provisions on the use of administrative resources in order to prevent their misinterpretation.

On 12 the Parliamentary Chairperson publicly acclaimed this memorandum and warned public officials that illegal interference in the electoral process would be strictly punished.

An encouraging step, on 21 April the ruling party joined the signatories of the memorandum and

<sup>7</sup>Tbilisi Municipal Budgets, 2007-2010, [http://www.tbilisi.gov.ge/index.php?lang\\_id=GEO&sec\\_id=174](http://www.tbilisi.gov.ge/index.php?lang_id=GEO&sec_id=174).

<sup>8</sup> <http://cec.gov.ge/old/?que=eng/press-center/press-releases&info=5819>





once again highlighted the significance of the fair conduct of the upcoming elections. The memorandum opens with the following preamble:

“We further agree with the statement in the Copenhagen Document of the Conference on the Human Dimension of the CSCE<sup>9</sup> that there must be “a clear separation between the State and political parties” (Article 5.4) and that the State must provide “political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and the authorities” (Article 7.6).”

It is invariably important that the Government adhere to the principles of a fair election and show the political will to avoid the misuse of administrative resources. For this it must not only rely on national laws and regulations, which in many cases are quite vague, but also comply with international standards of free and fair elections, as stipulated in the Copenhagen Document.

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<sup>9</sup>*Document of the Copenhagen Meeting of the Conference of the Human Dimension of the Conference on Security and Co-operation in Europe, Copenhagen, 29 June 1990, [http://www.osce.org/documents/odihr/1990/06/13992\\_en.pdf](http://www.osce.org/documents/odihr/1990/06/13992_en.pdf).*