TRANSPARENCY INTERNATIONAL GEORGIA

WORK CARD

1. **Ban on Agricultural Land Acquisitions by Non-Georgian Citizens**

In June 2013, without any analysis or consultation, two MPs proposed a law that banned foreign citizens from purchasing or inheriting agricultural land until December 2014. The legal ban had a number of negative consequences, including:

- The inability to sell agricultural land plots to foreigners, foreign registered legal entities, and legal entities registered by foreigners in Georgia

- Banks and microfinance institutions (MFIs) that have foreign shareholders and that take agricultural land or assets as security for a loan are unable to give loans to Georgian citizens, causing a devaluation in banking assets and limiting farmers' ability to get a loan.

TI Georgia has publicly lobbied against the change and challenged this ban in the Constitutional Court in September 2013 for being vaguely worded, discriminatory, unconstitutional – and likely to have a negative effect on the development of the economy.

The Ministry of Economy later proposed an amendment that would exempt commercial banks from the legal ban and in the near future create a government appointed committee to review applications for purchase of agricultural land by foreigners.

Recommendations:

During the latest legal amendments the Parliament has overlooked microfinance institutions (MFIs), a crucial component of agricultural lending, which was anti-competitive and discriminatory. As a result, we have started to advocate for further changes for the Parliament to consider:

- We have developed and proposed a legislative amendment that would allow MFIs in the exemption alongside banks;

- We analysed international practices and made recommendations to Parliament on how to structure the proposed committee that will evaluate requests for non-Georgian land acquisitions in order not to deter foreign investment into agriculture and reduce potential risks for corruption in this process.

2. On February 5, 2014, the Parliament of Georgia in the third hearing finally approved the Local Self-Government Code, which introduces certain changes in the local self-governmental system.

- After the reform, an additional of 7 Georgian towns are granted the status of self-governing city: Telavi, Ozurgeti, Zugdidi, Ambrolauri, Gori, Mtskheta and Akhaltsikhe. The villages adjacent to these towns will create new municipalities.

- According to the Code, the Municipal Governors and the Mayors of self-governing cities will be elected in direct elections. Pursuant to the changes that will be initiated in the Election Code of Georgia, 50% threshold will be established for election of a Governor (Mayor). After the next elections, the elected Governor (Mayor) will be the highest-ranking authority in self-government.

- Directly elected Governors (Mayors) could receive a vote of non-confidence and thereby be released from their positions. The Assembly has the right to grant a vote of non-confidence. This procedure could be initiated by 20 % of the electorate as well.

• Unlike the current system, legal supervision over the local self-government will be carried out by the Prime Minister of Georgia, rather than by the State Representative-Governor.

• A municipal consultation body Regional Consultation Council will be established with a State Representative-Governor. The authority of the Council will include: review of state implemented projects, programs and their estimates; review of social-economic development strategy; drafting of different types of recommendations. The membership of the Council will include the Governor/Mayor of the relevant municipality, the Head of the Assembly, and the Deputy Head of the Assembly. The Consultation Council will gather no less than once in three months and its decision will have a recommendatory nature.

• Local self-governmental financial resources will increase due to so called partitionary tax. The part of the income tax paid by the employees registered in the local self-governmental unit will remain with the same local self-governmental unit. In addition, the municipality budget will receive capital transfers along with special purpose transfers.

• A maximum threshold of municipality employees' numbers will be established. The threshold will be defined by no less than 30 employees unit, which will be added to the sum of numbers of majoritarian districts registered in 2010 local self-governmental elections and one employee unit per 500 electorate registered in local self-governmental unit. Currently, the number of employees in local self-governmental units is approximately 14 000, which will be reduced by 3 000 after the reform.

• Similarly, salaries of public servants in Assemblies and Governor's (Mayor's) Offices should not exceed 25% of the costs envisioned in the municipal budget.

• The assets required for carrying out functions of self-government, which are located on the territory of a specific municipality and are property of the Ministry of Economy, or are sequestrated or are on the balance of former collectivized farms, will be transferred to the balance of the relevant self-governmental municipality before 2017. As for the agricultural lands, the agenda and rules of transfer of such lands to the municipalities will be drafted before January 1, 2017 and will be sent to the government of Georgia for approval.

• Article 16.2 of the Local Self-Governmental Code defines authorities of the municipalities. The relevant new authorities are:

Paragraph "T" – provision of water supply (including technical aspects) and sewerage systems; development of local irrigation systems, which according to the current legislation falls under the authority of central government, specifically under the authority of LEPL "United Water Supply Company" within the Ministry of Regional Development and Infrastructure.

Paragraph "R" – definition of rules regarding domestic animals and decisions regarding free-ranging urban animals.

Paragraph "U" – development of adequate infrastructure on objects of local importance for persons with disabilities, children and elderly, including adaptation of public places and municipal transport.

• The code additionally includes the obligation of provision of emergency services for Tbilisi.

3. **Georgian Public Broadcaster**

The Georgian Public Broadcaster remains without a functioning board and is unable to address its dire financial situation and to overhaul its programs. The GPB's Director General, Giorgi Baratashvili, in December was for the second time reinstated by a court decision after he had been fired by the Board.

• The Parliament voted twice (in December and in January) to elect a new Supervisory Board but managed to select only four out of nine trustees – seven trustees need to be elected for the Board to have a quorum and become operational.

  - The election process was undermined by partisan dynamics in Parliament. A parliamentary commission of civil society representatives had shortlisted 27 candidates for the Board, from which the parliamentary majority and minority were supposed to elect candidates, in line with their quota. The majority Georgian Dream and the MPs outside the majority did not use all their quotas (each were entitled to nominate three individuals), suggesting that foremost the Georgian Dream wanted to see politically loyal individuals among the shortlisted.

- The Parliament cannot announce a new competition to fill the remaining vacancies on the Board, as the process is further complicated by pending court cases:

  - Several members of the outgoing Board filed a case with the Constitutional Court, claiming their right to hold a public office was violated when the Parliament dissolved the old Board. The court accepted and heard the case, its decision is pending. The application of the legal provision allowing the new board to become operational once seven members are elected has been suspended by the court until early April;

  - Eight individuals, who were among 27 shortlisted candidates, filed a case with the Kutaisi City Court, suing individual members of Parliament for failing to nominate candidates according to their respective quotas. The court accepted the case, though it is unprecedented to sue individual MPs for a decision taken by Parliament.