



საგარეო ურთიერთობებისა და საერთაშორისო უკომუნიკაციო კვლევის ფონდი
GEORGIAN FOUNDATION FOR STRATEGIC AND INTERNATIONAL STUDIES

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**SECURITY SECTOR REFORM
IN GEORGIA**

VASIL SIKHARULIDZE

EXPERT OPINION



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Introduction

Security Sector Reform is one of the most important challenges for the democracy in transition. Formation of well-functioning, effective and durable national security architecture, which fully corresponds to modern democratic standards is the one of the key components for the reformation of the Security Sector. It 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.

Georgia's new Constitutional model of governance that entered into force in 2012 has affected the country's security architecture. New constitutional amendments have transformed system of Governance from the Presidential Republic to the system that often called semi presidential system with popularly elected Head of State – President that has some responsibilities regarding the country's security and foreign policy as well as Cabinet of Ministers elected by the Parliament holding the main executive power to implement country's foreign and security policy. 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.

This change arose the requirement for adequate, effective and systemic legislative changes that would guarantee efficient mechanisms of coordination, collaboration and interaction among the institutions that form Georgia's Security Sector. The System should also provide adequate framework for the decision-making and Security Policy planning and implementation with the clearly defined responsibilities and procedures on every level. In Georgia's case the process of transformation of the State Security Architecture is even more complicated as Georgia is facing serious security challenges such as Russian occupation of the parts of its territory and continues threats related to the Russia's revisionist policy. Tense security environment requires effective and structured decision-making process in daily activities for Government as well as clear regulations and procedures for the strategic planning, policy development and implementation procedures and practices.

Further enhancement of instruments for the parliamentary and civil control over the Security Sector as well as strengthening public engagement in the policy-making process is an another important aspect of the Secu-

riety Sector Reform in Georgia. That must be done through Improvement of current and establishment additional, more adequate and effective mechanisms, procedures and practices of the parliamentary control and oversight over the Security Sector. Ensuring division of the responsibilities in the Security Sector Agencies among political appointees, civil service and uniformed service that will institutionally strengthen civilian control within the agencies and improve their effectiveness. Strengthening transparency and accountability of the Sector and subsequent agencies as well as providing framework for and establish better practice of civic engagement and participation are principal components of the Security Sector Reform too.

To increase effectiveness and compliance with democratic standards as well as ensure transparency and accountability of the agencies of the Security Sector such as Ministry of Defense, Ministry of the Internal Affairs and State Security Service (the latter is under the process of being established now) further Institutional and legislative reforms are required. Issues related with career management and continues education should be integral part of the Security Sector Reform too. These agencies are at different level of development and consequently facing agency-specific reform challenges. Issues such as division of responsibilities between civilian and uniformed service as well as institutionally established planning cycle are more in line with modern democratic standards in MoD, while in the Ministry of Interior these issues remain problematic.

Review of National Security architecture at the Strategic Level

New Constitutional system of governance that has entered into force in 2013 has significantly widened the competencies of the government and reduced the Presidential powers in many fields, including the national security. This, in its turn, necessitated the introduction of legislative changes in respect with the framework of national security architecture and NSC competencies.

Even though President is no longer responsible for conducting country's domestic and foreign policy, he retains important constitutional powers related to the national security. President remains to be the Head of State is the Commander in Chief of the Armed Forces, as well as the guarantor of country's territorial integrity and national independence. Together with the government, President carries out important functions in the foreign

relations such as conduction of negotiations, appointment of ambassadors, initiation of ratification and denouncement of the international treaties and agreements, as well as with regard of defense and crises management fields. President can declare state of emergency or martial law that needs approval by the parliament within 48 hours. President no longer has the right to initiate the legislation, however he still has the power of promulgating the laws adopted by the Parliament or vetoing them.

President also is empowered to initiate a discussion of specific issues at the meeting of the government and participate in this discussion. Such meeting of the government would also be attended by the Secretary of the National Security Council and its other members. President also retains as a chairman of the National Security Council and has an exclusive right to appoint its members.

The Cabinet of the Ministers has a considerably increased authority. Alongside with being a sole branch of executive power responsible for carrying out country's domestic and foreign policy, the Cabinet has acquired new rights and responsibilities related to the national security. The most significant change is the transfer of the authority on conducting the foreign and security policy from President to the Government. President is needs to seek government's approval on all important issues related to foreign policy, as well as military sphere, such as International negotiations, Appointment of ambassadors, Initiation of ratification and denouncement of the international treaties and agreements, issuing decrees during the state of emergency, appointment of the chief military leadership. On all these questions, constitution requires the decisions to be taken on the basis of consensus between President and the Government.

While the Constitutional amendments have not altered significantly the powers vested in the Parliament, with new distribution of powers between the President and the Government, the role of the Parliament has increased. In light of the new balance of power, Parliamentary authority to define the main directions of country's domestic and foreign policy has acquired increased significance. The also Parliament holds the powers of: approval of the state budget and caste a decision on budget execution; ratifying, denouncing or revoking international agreements and treaties; approval of declaration of the state of emergency or martial law; Casting a vote of confidence for the government program, as well as the Cabinet; Declare no confidence to the government and start impeachment proce-

dures. The Parliament legislates and defines the particular aspects of the national security architecture.

Last year Atlantic Council of Georgia has published Georgia's Security Sector Review study¹. The study has reviewed Security Sector and came up with the recommendations. That has included General recommendations on National Security Architecture as well as particular recommendations regarding the security sector reform related to the Ministry of Defense and Ministry of Internal Affairs. Study also included recommendations regarding the strengthening Parliamentary control on the security sector and improving the civic engagement.

Recommendations emphasized the need for the broad legislative act that would bring coherence to the legislative framework regulating security sector at large, define the competencies between the agencies, ensure the proper checks and balances in security sector, and provide the legislative basis for interagency coordination and institutionalization of the whole-of-government approach. The Act should have served as legislative tool for systematization of the relevant legislative framework and filling in the gaps with respect to security policy planning, elaboration of the strategic documents, interagency cooperation, crises management and securing policy-response to the emerging security challenges. Adoption of such Act should have mandate amendments to the existing legislative framework in order to bring greater consistency and coherence to the whole system.

In March 2015 Parliament of Georgia adopted the Law on Procedures of National Security Planning and Coordination². The legislation was supposed to create general framework for security policy planning, elaboration of the strategic documents, interagency coordination that ensures participatory mechanisms for the President, the Parliament and the Cabinet in line with constitutional provisions. Attempt to bridge the gaps mentioned above through the legislation is definitely positive intention, however, this legislation does little to fulfill the mission. Legislation doesn't envisage the role of the president in elaboration of the National Security concept or Treat Assessment documents. President's engagement is only foreseen in development of the National Military Strategy.

1 www.acge.ge/category/security-sector-reform/

2 www.parliament.ge/ge/law/7377/18822

This Legislation sets the hierarchy of the National level strategic documents. According to it on the basis of National Security Concept and Threat assessment, number of “National Strategies in Security sphere” must be developed by the Cabinet that would cover wide set of issues from National Defense and “Foreign Security” (term used in the law) to social-economic, energy, ecology, “internal security”, etc. From all these documents only defense strategy implies on President’s participation in its development or approval process. The legislation³ entails “agency level documents” such as concept of the agency, strategy of the agency, doctrine and program as part of security policy planning process. Absence of cohesive National Security Strategy document in the hierarchy of the strategic documents as well as overly trivial components rises the risk that national security planning process may become fragmented and incoherent in practice.

The same legislative act provides legal framework for the State Security and Crisis Management Council. This Council, together with the National Security Council are “coordinating agencies for the national security policy planning”⁴. State Security and Crisis Management Council (SSCMC) is a consultative (advisory) organ for the Prime Minister and has a permanent staff. As responsibilities of the Cabinet of the Ministers have significantly increased with regard of national security, Prime Minister’s office undertook the implementation of the increased responsibilities of the government in the security sector, including interagency coordination duties and elaboration of strategic level documents such as National Security Concept and Threat Assessment. The appropriate institutional capacity was clearly needed to support the increased level of responsibilities. In this regard, staff that professionally deals with the issues of national security planning, coordination and crisis management was definitely necessary for the PM’s office. However, the Council itself is not the decision-making body. Decisions on national security issues that are under the competencies of the government, according to the constitution, are under the responsibilities of the Cabinet. The SSCMC can technically act as an advisory body to the Prime Minister, but cannot make decisions. Therefore, the role of voting procedures within the SSCMC provided in this legislation is obscure and even looks as institutional and functional controversy.

3 www.parliament.ge/ge/law/7377/18822 article 16

4 www.parliament.ge/ge/law/7377/18822 article 19 - 3

After reviewing National Security architecture, its procedures and practices, lack of participatory approach on National Security planning and decision-making process can be noticed. Cabinet now holds the main executive power of implementation of country's foreign and security policy. At the same time, constitutionally, President retains certain responsibilities with regard of country's foreign and security policy. Streamlining the operation of the national defense and security system will require a design of the adequate mechanisms for cooperation between structural units of the National Security Council and PM's office. Shared responsibility and authority on certain issues of the national defense and security policy that fall within the scope of competencies of both, the President and PM, will contribute to more informed and qualified decision making in the defense and security sector.

Parliamentary and Civil Control of the Security Sector. Review 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 had policing, counter-intelligence, some intelligence, investigative, border control, anti-terrorist and emergency assistance functions. It was the largest and most powerful agency within the security system with virtually unlimited authorities. Despite some reforms, the MIA lacked a clearly defined framework for

institutional and functional division of its omnipotent authorities. Reform of the patrol police, that has been undertaken about 8 years ago, 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.

Recently adopted legislation **“on State Security Service”** separates Security Service from the Ministry of Internal Affairs and establishes it as an independent State agency. Separation of the policing and state security ensuring functions, in particular removing the counter-intelligence activities from the MIA competencies can be considered step to right direction. In the recommendations part of the report of the Atlantic Council of Georgia on Security Sector Review authors underlined the need to separate these functions.

However, reform has not addressed issues of strengthening of effectiveness internal and external control for both Mol and SSS, career management, reform of Inspector General, prevention of misuse of surveillance by the agency, improving the Judicial control over activities of these agencies. Georgian NGO community continues to seriously question level of transparency and accountability of both, the Mol and newly established State Security Service. Furthermore, current changes rise the questions of duplication of the functions in Mol and SSS. Whole-of-Government approach should be the basic principle for the country's security policy planning. In this context, since newly established SSS is not the political agency, issue of civilian oversight over the Service, institutional mechanisms for the strategic and policy planning for the agency remain unclear.

The study of the Atlantic Council of Georgia⁵ identified almost absence of established strategic planning system and procedures that produces 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. To close this gap and build a foundation of strategy and planning, also to avoid du-

5 www.acge.ge/category/security-sector-reform/

plication of the functions of these institutions, Government together with the MoI and newly established State Security Service 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. Support from NATO and EU, with bilateral assistance from NATO and EU member states, is strongly advised for better and more efficient outcomes.

Reform of the personnel management and professional education system alongside with related institutional changes aimed at division of responsibilities between political, civil service and uniformed service jobs are perhaps the most important and needed reforms for the MoI. 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. Clear distinction between uniformed and civilian service must be emphasized, including definitions of responsibilities, tasks and careers alongside with to establishment of a system of mandatory training for advancing throughout a career. Clear system and criteria's for promotion of professional service should be established as well.

Securing the proper democratic oversight over the security sector agencies, is the foremost challenge country is facing not only with regard of 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 as well as by the newly created State Security Service 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. International assistance provided to Georgia since 1990s by the USA and some other NATO countries has greatly contributed to the development of the Georgia's 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. This has significantly contributed to the development of the human capacity of the Ministry. Another positive factor that positively for the reform in the Georgian AF was the NATO integration process that provided politi-

cal incentives as well as institutionalized mechanisms for cooperation for the transformation of GAF. These two factors highly contributed to the defense institution building and transformation of Georgian AF bringing it to closer to the NATO standards.

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. Policy continuity and its consistent implementation, as well as necessary decentralization and sound management of human resources.

More efforts needed for further institutionalization of the defense planning and management processes, increasing investments in human capacity building through further development and synchronization of military education, training and HR management systems; Further development and institutionalization of the Planning, Programming and Budgeting System (PPBS) to produce an optimal and financially sound program-based budget that adequately supports defense priorities and objectives; Ensuring further development, optimization and sustainability of the military personnel management system.

Parliamentary Oversight. The legislative framework for parliamentary oversight in Georgia generally corresponds to internationally recognized standards. Parliament is empowered to adopt legislation, debate and endorse government policies and make decisions on budget appropriations. Parliament also has power to impeach or cast confidence vote against the Cabinet, as well as ratify international agreements including approval of participation of the Georgian armed forces in international peace missions outside the state borders of Georgia.

However, the role of Parliament is rather limited with regard of the appointment or dismissal of high level state officials of the security sector. Furthermore, current practices show bounds of “power of purse” of the parliament when it comes to the details of the budget allocations for the agencies of the security sector. As an established practice – mostly votes on overall figures and does little regarding the detailed analysis of the expenditures or programs planned by the security sector agencies.

Parliamentary oversight on the Ministry of Internal Affairs and the State Intelligence Service is limited too. Parliament can better exercise its oversight authority by strengthening independence of the “Group of Confidence’s” and further institutionalizing its work. Oversight responsibilities on the MoI, State Security Service and Intelligence service on the committee level are split between Defense and Security Committee and Committee on Legal Issues. None of these committees deal with it with full assets and attention. It also creates institutional confusion. Taking into consideration specific oversight needs, creating a new parliamentary committee on special services that would cover issues related to the MoI, SSS and Intelligence Service would allow the Parliament to better exercise its oversight authority on these agencies. In this case, Committee on Defense can more specifically deal with national defense issues.

In addition to it, Parliament of Georgia can increase democratic control over the security sector and its accountability through facilitating the establishment of the planning, programming and budgeting system in the budget development process. Strengthening the cooperation between Parliament and NGOs and academic institutions as well as with the international organizations would also contribute to the establishing more effective oversight over the security sector agencies.

Involvement of the civil society – NGO’s and academic institutions in the process of development of the conceptual basis for the national security planning, policy elaboration as well as reforms in the security sector not only provides greater independent and competent expertise to the state institutions but, most importantly, ensures higher legitimacy and public support to the reforms and strategic documents and strengthens mechanisms of public oversight over the sector. Level of the civic engagement in the security sector remains very limited. In order to foster and guarantee adequate civic engagement in these processes government should make steps to institutionalize inclusive policymaking in the security sector in developing strategic and policy documents as well as reform plans and agenda.