

**THE STATE OF
CORRUPTION:** 

ARMENIA, AZERBAIJAN,
GEORGIA, MOLDOVA
AND UKRAINE



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EXECUTIVE SUMMARY

Corruption remains a major problem in Armenia, Azerbaijan, Georgia, Moldova and Ukraine, threatening economic development and political stability as well as the credibility of governments. While some progress has been made in adopting anti-corruption laws in all five countries, the capture of important institutions by powerful interests is seriously undermining the effective enforcement of these laws.

In order to address the problem, Transparency International national chapters conducted in-depth research on the strengths and weaknesses of more than 60 institutions responsible for preventing and fighting corruption across the five countries.¹ This report presents the results of this research, identifies trends and issues of common concern across the region, highlights promising developments in the field of anti-corruption and makes concrete proposals for reform.

Lying at the crossroads between east and west, these five countries are increasingly caught between powerful geo-political interests with disparate values. They are characterised by relatively high living standards, coupled with a weak but developing democratic culture and a general sense of citizen mistrust of government. That said, there are some important variations across countries: while Moldova, Georgia and, to some extent, Ukraine appear more willing to undertake democratic reforms, Armenia's, and especially Azerbaijan's, ambitions are more ambivalent.

This uneven, and at times tumultuous, political transition creates a challenging context for advancing the fight against corruption in the region. On the one hand there is recognition that some progress has been made in all five countries with regards to anti-corruption reform. Most of the countries have a fairly sound legal framework in place, albeit with scope for further improvement. However, the dominance of powerful political and business elites over the rest of the political system, failure to consistently prosecute those who abuse their power for private gain, and continued pressure on non-state actors are evidence that legal reforms alone are not sufficient to guarantee a corruption-free society. All five countries must therefore focus on ensuring that laws are actually being implemented and enforced.

Effective enforcement requires commitment from all levels: it requires an accountable executive that has the drive to push forward anti-corruption policy without interfering with the due process of law. It also requires a strong and independent justice sector that is able to prosecute corruption cases impartially. Last but not least, it requires an active and vibrant civil society sector that is able to demand accountability from those in power who abuse their positions for personal gain at the expense of the wider public.

¹ Belarus is not part of this assessment because of the challenges of conducting independent anti-corruption research in the country.

KEY FINDINGS

Limited checks and balances on executive power

All five countries are dominated by powerful executive branches and, in some cases, by powerful individuals. The presidents of Armenia and Ukraine, for example, wield substantial decision-making power, while in Armenia and Azerbaijan numerous senior politicians maintain strong connections to the business sector.

At the same time, in all five countries, the executive is largely unaccountable to other state actors and citizens due to weak systems of checks and balances. For example, government plans and reports are not scrutinised, and the executive fails to respond to parliamentary questions or to act on the findings of external oversight agencies. In particular, the comparative weakness of the other two branches of government – the legislature and judiciary – as well as limited oversight from opposition parties, the media and civil society means that governments are able to maintain a tight grip on power, largely to the exclusion of dissenting voices.

Politicised and ineffective judiciaries

Weak judicial systems are undermining the fight against corruption in the region. In all five countries, the judiciary is perceived to be among the institutions most affected by corruption. This is particularly stark in the cases of Moldova and Ukraine where 80 per cent and 87 per cent of citizens, respectively, perceive the judiciary to be corrupt or extremely corrupt.

Judiciaries also suffer from limited independence from the executive, which has had a significant impact on their ability to play an active role in the fight against corruption. In the cases of Azerbaijan, Georgia and Ukraine, corruption prosecutions tend either to be politically motivated or to target petty offences and those who oppose the government. In the case of Armenia, the number of corruption prosecutions is very limited, while in Moldova much needed judicial reforms are lagging behind and are perceived to be highly politicised. That said, the Georgian judiciary is showing signs of becoming more impartial in its decisions and more active in holding the government to account.

Restrictions on civil society

Conditions for independent civil society in Armenia and Azerbaijan have become more restrictive over recent years, with cases of intimidation of civil society and opposition activists in both countries, in particular in Azerbaijan. Recent legal amendments in Azerbaijan have also been introduced, giving the government tighter powers to monitor civil society funding and to close down non-governmental organisations (NGOs) for relatively minor offences.

In other countries there are some promising signs of greater and more open civil activism, including more successful attempts to hold government to account for its actions, especially in Georgia and Ukraine. It is crucial to seize this window of opportunity and further support civil society organisations (CSOs) to strengthen local legitimacy and the sustainability of government reform efforts.

RECOMMENDATIONS

The governments of Armenia, Azerbaijan, Georgia, Moldova and Ukraine² should:

- **end undue political interference in executive affairs**, including minimising the role of powerful individuals and business interests in key government decisions.
- **implement urgent judicial reforms and ensure effective and impartial prosecution of corruption offences**, including prioritising the prosecution of high-level officials and eliminating political influence over judicial decisions
- **strengthen external oversight of government**, including ensuring that sanctions are imposed for failure to act on the findings of external oversight agencies and that the executive responds to questions by parliament in a timely and comprehensive manner
- **support a free and vibrant civil society sector**, including easing unreasonable legal and financial restrictions on CSOs and ending all forms of intimidation, harassment and persecution of civic activists and journalists

The international community, including the European Union, should:

- **more clearly articulate and prioritise the specific anti-corruption commitments** to which partner countries are expected to subscribe through the Eastern Partnership and other regional agreements
- **provide ongoing support to public watchdogs**, including supreme audit institutions and electoral management bodies, to ensure that they are able to act independently and impartially, without undue interference from the government which they are supposed to oversee
- **intensify efforts to promote the institutional independence of judiciaries** in the region, including the complete independence of judicial councils and judicial budgets from the executive and legislature
- **place greater emphasis on providing support to, and dialogue with, civil society** in the region, while increasing flexible financial assistance that is accessible to both smaller and larger CSOs as well as to individual activists

² A selection of country-specific recommendations is presented at the end of the country profiles. More detailed recommendations can be found in the National Integrity System assessment of each country: www.transparency.org/whatwedo/nis

INTRODUCTION

Corruption continues to be a serious and pervasive problem in Armenia, Azerbaijan, Georgia, Moldova and Ukraine. Lying at the boundary between the European Union and Russia, these countries are caught between powerful political interests with increasingly disparate values and strategies. Efforts to tackle corruption in the region are, therefore, heavily influenced by the current geopolitical climate and, in particular, by the efforts of the European Union on the one hand and Russia on the other to build stronger political and economic ties with their mutual neighbours.

Since the break up of the Soviet Union, the region has also witnessed numerous territorial disputes and movements for self-determination, many of which continue to threaten stability and the advancement of good governance in the region. These include the conflict between Armenia and Azerbaijan over the disputed territory of Nagorno-Karabakh, secessionist enclaves in Abkhazia and South Ossetia in Georgia, and Transnistria in Moldova, and, since 2014, territorial disputes in Crimea and Donbass in Ukraine.³

A region at a crossroads

According to the UN's Human Development Index, all five countries are classified as having relatively high levels of human development (health, education and living standards), with the exception of Moldova, which is classified as medium. At the same time, democratic progress in the region is severely lagging and corruption levels remain high. All of the countries score less than 4.5 on a scale of 1 to 7 according to Freedom House *Nations in Transit 2014* data, with 1 representing the highest level of democratic progress and 7 the lowest. In Transparency International's *Corruption Perceptions Index 2014*, which measures the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean), all five countries score relatively poorly, with only Georgia receiving a score above 50.

Nevertheless, there are some clear social and political differences between the five countries, with Azerbaijan and Georgia representing the two ends of the spectrum (see figure 1). The digression between socio-economic development and weak governance is most apparent in the case of Azerbaijan. Despite having a GDP per capita that is more than double that of any of its neighbours, largely thanks to substantial oil revenues, it is the least democratically advanced country and has the second highest level of perceived corruption in the region, behind Ukraine. Georgia, on the other hand, stands out as relatively more democratic than most of its neighbours and is perceived to be the least corrupt of the five countries, while its GDP per capita is modest.

³ Jeff Lovitt, ed., *European Integration Index 2014 for Eastern Partnership Countries* (Brussels: Eastern Partnership Civil Society Forum et al., 2014).

Figure 1: Key social, economic and governance indicators

Sources and explanations:

1. UNDP Human Development Index (2013) is a combined measure of health, education and living standards, where 1.0 is very high and 0.0 is very low.
2. World Bank GDP/capita (2013) is a country's gross domestic product divided by mid-year population, measured in US\$.
3. Freedom House: *Nations in Transit 2014* democracy scores are based on seven different indicators using a scale of 1 to 7, with 1 representing the highest and 7 the lowest level of democratic progress.
4. Transparency International's *Corruption Perceptions Index 2014* indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean).

	ARMENIA	AZERBAIJAN	GEORGIA	MOLDOVA	UKRAINE
Human Development Index (2013)	0.73	0.75	0.74	0.66	0.73
GDP/capita (USD 2013)	3505	7812	3597	2239	3901
Freedom House Democracy Score (2014)	5.36	6.68	4.68	4.86	4.93
Corruption Perceptions Index (2014)	37	29	52	35	26

At the same time, the five countries display different levels of alignment with their powerful neighbours. On the one hand, all five countries are members of the Eastern Partnership, a joint initiative between the European Union and its eastern partners, which aims to support them through stronger political, economic and cultural links, although with limited prospects of future accession to the European Union. Moldova, Georgia and, to some extent, Ukraine appear the most committed among the Eastern Partnership members to aligning their policies and laws to those of the European Union in return for political and financial support, preferential access to its markets, and visa-free travel. On the other hand, Russia has been successful in convincing the governments of Belarus and Armenia to join its Eurasian Economic Union, and has further expanded its influence through the recent annexation of Crimea. Azerbaijan, meanwhile, has not made any moves to join either of the two trade blocs.⁴

The extent to which these paths are fixed varies from case to case. Nevertheless, these external actors have significant influence over the social, political and economic development in each country. Hence, this report presents the governments of the five countries as well as the international community with a set of urgent priorities which must be addressed in order to tackle corruption more effectively.

The report is based on the findings of National Integrity System assessments⁵ implemented by Transparency International chapters in the five countries between 2014 and 2015, as well as additional secondary sources.⁶ The National Integrity System assessment approach provides a

⁴ Jeff Lovitt, ed., 2014.

⁵ www.transparency.org/whatwedo/nis

⁶ Unless otherwise stated, the analysis presented in this report draws upon the five National Integrity System assessments.

framework for analysing the robustness and effectiveness of 13 state and non-state institutions in preventing and fighting corruption in a given country (see the Annex for more details). In three of the five countries (Armenia, Georgia and Ukraine) these studies represent updates of previous National Integrity System assessments, and thus provide valuable information in each case about progress in the fight against corruption.

REGIONAL OVERVIEW

The National Integrity System assessments of Armenia, Azerbaijan, Georgia, Moldova and Ukraine clearly show that these countries face significant challenges in advancing the fight against corruption. On the one hand, there is recognition that some progress has been made in all five countries with regard to anti-corruption reform. Most of them have a fairly sound legal framework in place, albeit with scope for further improvement. However, the dominance of powerful political and business elites over the rest of the political system, failure to consistently prosecute those who abuse their power for private gain, and continued pressure on non-state actors are evidence that legal reforms alone are not sufficient to guarantee success in the fight against corruption. These countries must therefore focus on ensuring that laws are actually being implemented and enforced.

Ensuring respect for the rule of law requires commitment from all levels: it requires an accountable executive which has the drive to push forward anti-corruption policy without interfering with the due process of law. It also requires a strong and independent justice sector that is able to prosecute corruption cases impartially. Last but not least, it requires an active and vibrant civil society sector that is able to demand accountability from those in power who abuse their positions for personal gain at the expense of the wider public. Unfortunately, these areas are weak across the region, notwithstanding some notable exceptions.

LIMITED CHECKS AND BALANCES ON EXECUTIVE POWER

In four out of the five countries (Azerbaijan, Georgia, Moldova and Ukraine), the executive branch is among the three most powerful institutions in the National Integrity System. A strong government can act as a force for good in the fight against corruption as long as the appropriate checks and balances are in place. Without these checks and balances, undue influence of centralised power inevitably encroaches into other branches of government, increasing the risk of corruption.

Powerful individuals...

The presidents of Armenia and Ukraine wield substantial power. In Armenia, the president is largely synonymous with both the ruling party and the executive, and has a final say on almost all important matters in the country. In Ukraine, the president has broad powers to determine foreign and defence policy, to propose candidates for key ministerial positions, to appoint local government heads and to suspend government decisions. Meanwhile in Armenia and Azerbaijan, numerous senior politicians maintain strong connections with the business sector.

... and weak oversight

The power of these individuals is left largely unchecked due to the weak capacity of other institutions, in particular the legislature and the judiciary, to effectively hold the government to account. This is manifested in numerous ways across the five countries: government activity reports are not extensively debated or contested by parliament (Azerbaijan), there is little opportunity to challenge government spending plans (Georgia), ministers routinely fail to respond adequately to parliamentary questions (Georgia, Ukraine), parliamentary committees (Azerbaijan, Ukraine) or ad hoc investigative committees (Georgia) are either largely absent or ineffective, and recommendations issued by governmental watchdogs are often ignored (Ukraine). Oversight from opposition political parties, the media and civil society is also weak in most of the countries, largely

due to the fact that they themselves are often subject to undue influence from the state. Hence, ensuring that oversight bodies are independent from the executive and supporting more active engagement of non-state actors in holding governments to their anti-corruption promises are of critical importance in order to achieve progress.

Strengthening independent oversight in Ukraine

In October 2014, the Parliament of Ukraine adopted the Law on the Prevention of Corruption. This law was a key demand of a coalition of CSOs led by Transparency International Ukraine, which channelled the widespread public outrage about systemic corruption in the country into concrete reform proposals.

The law, which came into force in April 2015, provides for the establishment of a dedicated Agency for the Prevention of Corruption. The need for such a body was one of the main findings of the National Integrity System assessment in Ukraine, which showed that despite substantial improvements to the legislative framework, corruption remains systemic and needs to be tackled by a strong oversight agency. The new agency is empowered to probe alleged misconduct by national and local officials, and has the power to begin and conduct investigations, to arrest suspects on the basis of a court order, and to identify and freeze assets. The agency may also obtain documents and data from other government agencies, including information about the incomes, assets and expenditures of public officials.

If it can be ensured that the institution operates independently and receives adequate financial and political support, the new agency could be critical in keeping a check on abuse of power and addressing corruption in the country.

POLITICISED AND INEFFECTIVE JUDICIARIES

All five countries feature on the list of 20 countries worldwide in which the judiciary is perceived to be among the institutions most affected by corruption, according to Transparency International's *Global Corruption Barometer 2013*.⁷ The situation is particularly stark in the cases of Moldova and Ukraine, where 80 per cent and 87 per cent of citizens, respectively, perceive the judiciary to be corrupt or extremely corrupt.⁸ In Moldova, while several judges were convicted for receiving bribes for the first time in 2014,⁹ these cases are considered to be relatively minor.

Subservient judiciaries

70 per cent of citizens in Armenia do not consider the judiciary free from governmental influence¹⁰ and only 46 per cent of Ukrainians believe that the courts assess their cases in an independent and impartial manner.¹¹ This picture can be attributed in no small measure to the dominance of the executive branch over the entire integrity system, as described above. Executive interference in the judiciary takes the form of politically motivated appointments and removal of judges (Azerbaijan, Ukraine) or significant control over the judicial budget (Azerbaijan). This in turn diminishes the ability of the judiciary to hold the executive to account through effective judicial review. It also has a

⁷ Transparency International, *Global Corruption Barometer 2013*, (Berlin: Transparency International, 2013a).

⁸ Transparency International, 2013a.

⁹ European Commission, *Implementation of the European Neighbourhood Policy in Moldova: Progress in 2014 and recommendations for actions* (Brussels: EC, 2015c).

¹⁰ Caucasus Research Resources Centers, *Caucasus Barometer 2013* (Tbilisi: CRRC, 2013).

¹¹ Transparency International Ukraine, *National Integrity System Assessment 2015* (Kiev: TI Ukraine, 2015).

significant impact on the extent to which the judiciary is able to play an active role in the fight against corruption. The number of corruption prosecutions is either very limited (Armenia) or prosecutions are more likely to be politically motivated, with mostly low-level corruption cases or cases involving those in opposition to the government being pursued (Azerbaijan, Ukraine).

Despite also continuing to pursue a number of politically motivated prosecutions, Georgia stands apart from its neighbours in showing signs of a judiciary that is becoming more impartial in its decisions and more active in holding the executive to account. Among other things, the country has witnessed a recent increase in the rate of administrative court cases won by private parties against the state, more independent behaviour of judges in questioning and, in some cases, rejecting prosecutors' motions in criminal cases.

RESTRICTIONS ON CIVIL SOCIETY

The need to ensure a strong and active civil society that is able to hold powerful interests to account is recognised as a critical factor in the fight against corruption in the five countries, and yet it has not received sufficient political support to date.¹² Organised civil society can channel public discontent into a constructive force for change. While the environment for civil society activity varies across the region, CSOs are increasingly under pressure in some of the countries assessed in this report.

How civil society can help build public confidence in electoral processes

On 27 October 2013, Presidential elections were held in Georgia, resulting in the first democratic election of a Georgian president since the peaceful Rose Revolution of 2003. Transparency International Georgia and other CSOs played an important role in the electoral process and helped to make the polls democratic, fair and peaceful.

On election day, Transparency International Georgia deployed volunteer observers to more than 300 polling stations across the country to monitor the voting process. However, their involvement was not limited to the election day itself: through long-term observation and monitoring carried out during the pre-electoral phase, Transparency International Georgia contributed to limiting the abuse of administrative resources by civil servants and political candidates to intimidate, threaten, arrest or dismiss people on the basis of their political affiliation – something that had happened on a regular basis during previous election processes in Georgia.

¹² Diana Schmidt-Pfister and Holger Moroff, *Fighting Corruption in Eastern Europe: A Multi-Level Perspective* (London: Routledge, 2012).

Civil society under pressure...

Conditions for independent civil society in Armenia and, in particular, Azerbaijan have become more restrictive over recent years. In Azerbaijan, there are concerns about recent legal reforms that grant the government tighter control over civil society, as well as excessive interference from the state in CSO activities and cases of violence and intimidation against journalists, opposition activists and human rights defenders. In Armenia, CSOs suffer from restrictive tax regulations, while an increase in the number of attacks against CSOs and inadequate investigation by the authorities have also been recorded. And while there have been no reported cases of direct government pressure on CSOs in Moldova, there are concerns about favouritism towards allegedly politically-affiliated NGOs and about the emergence of the so-called government organised NGO (GONGO) phenomenon. In Georgia, the current government initially demonstrated a certain openness to CSOs after it came to power. However, this has not been sustained and top officials from the government and ruling party have recently made a number of aggressive statements against the country's leading CSOs, which could be perceived as an attempt to influence or curtail their work.

... but signs of a turning tide

Nevertheless, there are some promising signs of greater and more open civic activism among the five countries, especially in Georgia and Ukraine. In Georgia, civil society has been significantly strengthened over recent years and has made a considerable impact through continuous monitoring of government activity and a number of effective advocacy campaigns. In Ukraine, civil society is also relatively strong thanks to a legal framework that generally protects CSOs from undue external interference, active CSO engagement in anti-corruption policy reforms, and an increased CSO role in holding government to account. There has also been an increase in the number of civic campaigns over the past five years, most notably the Euromaidan Movement, which demonstrated unprecedented levels of citizen mobilisation and self-organisation and led to the ousting of former president Viktor Yanukovich in early 2014. In Armenia, despite the increase in repression noted above, the recent rise of civic initiatives that have galvanised support from both citizens and opposition political parties is a promising sign.

COUNTRY SNAPSHOTS

ARMENIA

Armenia ranks 94 out of the 174 countries assessed by Transparency International's *Corruption Perceptions Index 2014*, with a score of 37 on a scale from 0 (highly corrupt) to 100 (very clean).¹³ A particular feature of corruption in Armenia is the presence of so-called "oligarchs" who enjoy the fruits of a shadow economy estimated to account for around 35 per cent of Armenia's GDP. Patronage networks and a lack of clear separation between private enterprise and public office act as an important barrier to effective anti-corruption efforts.¹⁴ It is not surprising, therefore, that 82 per cent of people in Armenia believe that corruption in the public sector is a problem or a serious problem, with the judiciary and the civil service perceived to be the sectors most affected by corruption.¹⁵

At the same time, only 21 per cent of Armenians believe that the government is effective in its anti-corruption efforts,¹⁶ despite the adoption of successive anti-corruption strategies (see below). Armenia has also recently introduced a new electoral code that strengthens the oversight and control over party finances, as well as a new public service law designed to prevent conflicts of interest, corruption and undue influence among civil servants and high-level public officials.¹⁷ However, whistleblower protection provisions in the law are considered to be weak,¹⁸ and Armenia still lacks an independent anti-corruption agency.

Developing Armenia's anti-corruption strategy

The Transparency International Anti-Corruption Centre (Transparency International Armenia) participated in drafting the concept for Armenia's third anti-corruption strategy between December 2013 and March 2014. The concept includes numerous approaches recommended in the Armenian National Integrity System assessment, particularly with regards to reform of the civil service and executive branch. These include, among other things, prevention of conflicts of interest, a more effective asset declaration system for public servants and high-ranking officials, improvement of the merit-based appointment system for civil servants, and enhanced public sector fiscal transparency and disclosure of non-classified information. The concept was approved by the Armenian Government in April 2014, although the new anti-corruption strategy has yet to be adopted.¹⁹ Ensuring that the new strategy is implemented without delay is critical and will be a key test of the government's political will to fight corruption.

¹³ Transparency International, *Corruption Perceptions Index 2014* (Berlin: Transparency International, 2014).

¹⁴ Transparency International, *Overview of Corruption and Anti-Corruption in Armenia*, (Berlin: Transparency International, 2013b).

¹⁵ Transparency International, 2013a.

¹⁶ Transparency International, 2013a.

¹⁷ Transparency International, 2013b.

¹⁸ Transparency International, 2013b.

¹⁹ "Education, healthcare, revenue collection and Police will be priority spheres in the Government's new anti-corruption program", *The Government of the Republic of Armenia* (web), accessed 14 April 2015 (<http://gov.am/en/news/item/7251/>).

A political landscape dominated by an unaccountable elite

Armenia's National Integrity System is undermined by the convergence of political and business elites, the dominance of monopolies, and insufficient checks and balances between the branches of government. The political landscape is dominated by a powerful president, the ruling party and numerous sitting members of parliament with strong connections to the private sector. The president, both former prime ministers and the incumbent prime minister, as well as the majority in the parliament, are members of the same party. Thus the party, the executive and the president can largely be considered one and the same, leading to overreach into the affairs of the state by the president who has a final say on almost all important matters in the country. The lack of strong checks and balances means the president is virtually unaccountable to other bodies. As a result, Armenia's democratic transformation has been described as "both incomplete and inadequate".²⁰

Judiciary largely fails to prosecute corruption

In general, political parties in Armenia are highly centralised and undemocratic, limiting the extent to which they can represent their constituencies in parliament. The result is a parliament that is subservient to the executive. The same is true of the judiciary: 70 per cent of citizens in Armenia consider that the judiciary is not free from governmental influence. As a result, the judiciary fails to adequately prosecute corruption offences. For example, during the first half of 2013, only two cases were adjudicated for bribe-taking, and only six files for bribery were opened. In total, for all 31 types of corruption offences, only 48 cases were adjudicated in the same period.

Promising signs in oversight institutions

While checks and balances between the branches of government are weak, Armenia's independent oversight agencies (the chamber of control, electoral management body and human rights defender) perform relatively well thanks to a supportive legal framework and generally adequate resources. In particular, the human rights defender is recognised as the strongest institution in Armenia's National Integrity System, and it has been praised for its courage in resisting pressure from state institutions.

Civil society on the rise despite continued government clampdowns

The media, civil society and the business sector are the weakest institutions in Armenia's National Integrity System. There are concerns about the capacity and sustainability of CSOs in Armenia, given the treatment of CSOs as for-profit organisations for tax purposes. There has also been an increase in clampdowns on civil activists. The European Commission has recorded a number of attacks against CSOs, as well as inadequate investigation of these attacks by the authorities.²¹ Nevertheless, although civil society and the media remain constrained, there has been a recent increase in the number of civic initiatives, indicating a stronger voice emerging from the non-state sectors of society. Of particular note is the recent "Dem em" (I am against) movement against a proposed rise in pension contributions, which attracted significant support from the population and opposition political parties.

A key feature of the business sector, meanwhile, is the presence of monopolies, especially within commodity-producing industries. Public officials and members of parliament have substantial direct

²⁰ Bertelsmann Stiftung, *BTI 2014 - Armenia Country Report*, (Gütersloh: Bertelsmann Stiftung, 2014a).

²¹ European Commission, *Implementation of the European Neighbourhood Policy in Armenia: Progress in 2014 and recommendations for actions*, (Brussels: EC, 2015a).

and indirect control over important private businesses, often through hidden partners or close relatives and friends, limiting free market competition and discouraging foreign investment.²²

**ARMENIA'S NATIONAL INTERGITY SYSTEM:
STRONGEST TO WEAKEST INSTITUTIONS**

Ombudsman (Human rights defender)
Supreme audit institution (Chamber of control)
Electoral management body
Political parties
Legislature
President
Executive
Judiciary
Law enforcement agencies
Civil service
Business
Civil society
Media

Key recommendations

- The government and parliament should ban members of parliament and senior public officials from engaging in business activities. Sanctions for such actions should be introduced, including for those who are aware of such practices but do not report them.
- The judiciary should significantly speed up the prosecution rate of corruption offences, giving greater priority to prosecuting high-level officials in order to build trust among citizens in the judiciary's commitment to fighting corruption.
- In order to build the capacity and sustainability of civil society, the government should ease the tax regulations for CSOs so that they are not classified as for-profit organisations.

²² US Department of State, *2013 Investment Climate Statement – Armenia*, (Washington: US State Department, 2013).

AZERBAIJAN

Corruption in Azerbaijan is widely perceived to be endemic and deeply institutionalised – permeating all spheres of public life, with entrenched political patronage networks and widespread conflicts of interest closely connected to the political elite.²³ Azerbaijan has thus been described as a consolidated authoritarian regime, which exercises “tight control over Azerbaijani society.”²⁴ According to Transparency International’s *Corruption Perceptions Index 2014*, Azerbaijan ranks 126 out of the 174 countries assessed, with a score of 29 on a scale from 0 (highly corrupt) to 100 (very clean).²⁵ 58 per cent of people in Azerbaijan believe that corruption in the public sector is a problem or a serious problem, with health services and the judiciary perceived to be the sectors most affected by corruption.²⁶

At the same time, the government has initiated some important anti-corruption reforms in the country, including the introduction of ASAN centres for delivering public services – a single government e-portal which has improved business start-up procedures and enhanced recruitment practices in the civil service. A number of important laws have also been introduced over the past decade, including an anti-corruption law, an asset declaration law, a code of conduct for civil servants and an access to information law. The government has also launched a National Action Plan to Combat Corruption for 2012–2015 and it joined the Open Government Partnership in 2012.

However, important gaps in the legislation remain, including the lack of whistleblower protection, comprehensive conflict of interest regulations and private sector anti-bribery legislation. Furthermore, the asset declaration law is rendered effectively meaningless by the fact that declaration forms to be filled in by public officials have yet to be developed.

²³ Transparency International, *Overview of Corruption and Anti-Corruption in Azerbaijan*, (Berlin: Transparency International, 2013c).

²⁴ Freedom House, *Nations in Transit 2014*, (Washington: Freedom House, 2014).

²⁵ Transparency International, 2014.

²⁶ Transparency International, 2013a.

Whistleblower protection needed in Azerbaijan

Whistleblowers play an essential role in exposing corruption, fraud, mismanagement and other wrongdoing that threatens public health and safety, financial integrity, human rights, the environment, and the rule of law.²⁷ To provide a safe space for individuals to speak out about corruption and other forms of wrongdoing, legal protection of whistleblowers against discrimination or even dismissal from their workplace is of critical importance. Therefore, a key recommendation of Transparency Azerbaijan's National Integrity System assessment is the adoption of a law on whistleblower protection.

Transparency Azerbaijan along with another NGO, the Constitution Research Foundation, as well as the government's own National Anti-Corruption Commission and the Civil Service Commission has been invited to participate in a working group²⁸ on the issue.²⁹ Transparency Azerbaijan is calling for the new law to include a broad definition of whistleblowing that would apply to both public and private employees, and that would grant protection from all forms of retaliation, disadvantage or discrimination. The law should also ensure that the identity of a whistleblower would not be disclosed without the individual's explicit consent, that any disclosure would be exempt from disciplinary proceedings and liability, and that the whistleblower would be guaranteed a full range of remedies covering all direct, indirect and future consequences of any reprisals.³⁰

Weak checks and balances

The Azerbaijan National Integrity System is characterised by a dominant executive branch and strong law enforcement agencies, which are largely unaccountable due to weak oversight. The ability of other institutions, such as the judiciary, the legislature, the chamber of accounts and the ombudsman, to hold the executive to account is seriously limited by the fact that sanctions are not imposed for failure to act on their findings. As a result, executive reports are not extensively debated or contested, the legislature's power to set up committees of inquiry is not effectively enforced and reviews of the public procurement system are rare, leading to long delays in much needed public procurement reforms.

A largely ineffective judiciary

The dominance of the executive over the judiciary is also apparent through the significant control it exercises over the judicial budget. One result of this interference is that, overwhelmingly, cases pursued are low-level corruption cases or cases involving those in opposition to the government. In 2011, for example, following a series of street protests, a number of flawed trials were held by the government, resulting in several dozen opposition activists being convicted on charges ranging from possession of drugs to conspiracy.³¹ More recently, the government arrested and, in some cases, imprisoned dozens of political activists, human rights defenders, journalists, bloggers and lawyers on allegedly fake charges, ranging from misappropriation of funds to treason.³² That said, for the first

²⁷ Transparency International, *International Principles for Whistleblower Legislation*, (Berlin: Transparency International, 2013d).

²⁸ "Working group on improvement of legislation", *Commission on Combating Corruption* (web), accessed 3 June 2015 <http://antikorrupsiya.gov.az/view.php?lang=en&menu=25>

²⁹ "The Law on Whistleblower protection will be publicly discussed in Azerbaijan", *Trend News Agency* (web), 31 July 2014.

³⁰ Transparency Azerbaijan, *Concept Paper on Whistleblower*, (Baku: Transparency Azerbaijan, 2015).

³¹ Bertelsmann Stiftung, *BTI 2014 - Azerbaijan Country Report*, (Gütersloh: Bertelsmann Stiftung, 2014b).

³² "Statement from Open Society on the Crackdown on Rights in Azerbaijan", *Open Society Foundations* (web), 22 January 2015.

time ever in Azerbaijan, in 2013 a former member of parliament was sentenced to three years imprisonment following the so-called 2012 Gulargate scandal, in which the member of parliament in question was found to have offered a seat in parliament in exchange for money.³³ While the verdict in itself is a positive step, it should be noted that other high-ranking officials implicated in the scandal have escaped further action and this seems to be the only example of its kind.

Space for civil society and journalists severely limited through legal restrictions and direct attacks

Despite some signs that the non-state watchdogs of civil society and the media have become more vocal, and civil society networks have had some success in influencing the development of the state budget, civil society and the media are rated among the weakest links in Azerbaijan's National Integrity System. In particular, there are concerns about recent legal reforms that grant the government tighter control over civil society, including expanded powers to dissolve organisations for minor offences, legal obligations to register grant agreements with the Ministry of Justice, as well as numerous reports of excessive interference by the state in CSO activities. These concerns are supported by evidence from other research that shows how the government has clamped down on dissent and protests through legal restrictions, as well as cases of violence and intimidation against journalists, opposition activists and human rights defenders.³⁴

A challenging business environment

The business sector is rated as the weakest institution in the Azerbaijan National Integrity System. Despite the fact that registration of businesses has recently become simpler, thanks largely to more efficient electronic services, small businesses continue to suffer substantially from the high cost of licences and permits, the dominance of monopolies, limited access to finance, lack of skilled labour, cumbersome foreign trade and customs regulations, high tax rates, and cases of corruption. The limited awareness among small businesses of their rights is a particular concern and has created a business environment which is very conducive to corruption. At the same time, politically connected oligarchs use their influence to skew the market in their favour.³⁵

³³ Freedom House, 2014

³⁴ Freedom House, 2014.

³⁵ Transparency International, 2013c

**AZERBAIJAN NATIONAL INTERGITY SYSTEM:
STRONGEST TO WEAKEST INSTITUTIONS**

Executive
Law enforcement agencies
Anti-corruption agencies
Ombudsman
Public sector
Supreme audit institution
Electoral management body
Judiciary
Legislature
Media
Civil society
Political parties
Business

Key recommendations

- The government should repeal the legal restrictions recently imposed on civil society, including the power to dissolve organisations for minor offences and the legal obligations for CSOs to register grant agreements with the Ministry of Justice. The authorities must end all forms of intimidation, harassment, and persecution of civil society activists and journalists.
- The government should ensure the financial independence of the courts through an increase in the judicial budget and by delegating the authority to manage the budget to the courts themselves and/or the Judicial Legal Council.
- The government should tighten the regulatory framework to ensure sanctions are imposed for failure to act on the findings of the Ombudsman and the Chamber of accounts.

GEORGIA

Georgia is widely recognised as having been largely successful in tackling petty corruption and public sector bribery over the last 10 years. Georgia is currently the best performer of the five countries in Transparency International's *Corruption Perceptions Index 2014*, ranking 50 out of 174 countries, with a score of 52 on a scale from 0 (highly corrupt) to 100 (very clean).³⁶ According to Transparency International's *Global Corruption Barometer 2013*, 70 per cent of citizens believed that corruption had decreased in the year preceding the survey, while the number of respondents reporting paying a bribe stood at 4 per cent, significantly lower than any of the country's neighbours.³⁷ At the same time, more complex forms of corruption persist, including clientelism and cronyism, due to the concentration of power among the country's elite, as well as allegations of kickback payments for the award of public contracts.

Georgia's progress in the fight against petty corruption is largely attributed to the introduction of a number of important legal reforms from 2003 onwards, including the criminalisation of active and passive bribery, the strengthening of money laundering legislation, the introduction of a general code of ethics for civil servants, and asset disclosure and whistleblower protection provisions for public officials. Crucially, these legal reforms have been accompanied by strong enforcement and practical measures, including: more pro-active prosecution and sanctioning of corruption offences; downsizing the over-inflated public sector bureaucracy; a reduction in the number of regulatory agencies, licences and taxes; salary raises for public officials and civil servants; and reform of law enforcement agencies, including disbanding the notoriously corrupt traffic police. Nevertheless, weaknesses in Georgia's National Integrity System persist, including the absence of an independent anti-corruption agency whose responsibilities would include the investigation, monitoring and enforcement of anti-corruption provisions.

Recent anti-corruption reforms in Georgia

In 2014, the Georgian government began working on the introduction of a verification system for asset declarations. Transparency International Georgia highlighted the lack of such a verification system as a major gap in its earlier National Integrity System assessment of 2011. While the work is yet to be completed, the government has committed to presenting the necessary draft legislative amendments in summer 2015.

At the same time, in February 2014, the Georgian Parliament also adopted Transparency International Georgia's recommendation regarding local government, and, as a result, the list of local government officials that are required to file asset declarations was expanded.³⁸

Strong oversight agencies, but a weak parliament

Georgia's National Integrity System is notable for the relative strength of its three independent oversight agencies: the electoral management body, public defender and state audit office. In particular, the electoral management body has achieved greater independence since the last assessment in 2011, resulting in an improvement in the administration of elections and a more level playing field for political parties. Improvements are also evident in a more diverse legislature and a more independent judiciary over the past four years, although these branches still remain weak

³⁶ Transparency International, 2014.

³⁷ Transparency International, 2013a.

³⁸ "The list of public officials filing asset declarations needs to expand", *TI Georgia* (web), 8 October 2013.

relative to a dominant executive branch, pointing to the continuing problems in the system of horizontal accountability and checks and balances.

At the same time, parliamentary oversight is weak. Executive agencies often fail to respond to the questions submitted by members of parliament or they provide inaccurate and inadequate information, while ministers often send representatives to parliamentary hearings in their place. Moreover, ministers are not required by law to attend parliamentary question sessions as is common practice in other countries. Parliament only established one commission of inquiry during 2013, despite calls from minority parties to investigate a number of high profile criminal cases. Meanwhile, recent constitutional amendments in Georgia have proved somewhat of a double-edged sword: while the power to dissolve parliament as a result of its refusal to pass a law was removed, the same power was instead introduced for failing to pass the budget in the first two months of the fiscal year, leaving little room to challenge government spending plans.

Judiciary moving towards greater independence

The government has also continued to oversee controversial investigations and prosecutions of former officials, leading the European Union to call for fair, transparent and evidence-based due process, free from political interference.³⁹ Nevertheless, the rate of administrative court cases won by private parties against state bodies in Georgia has increased substantially over recent years, from 24 per cent in 2011 to 62 per cent in 2013, suggesting that the judiciary is more willing to challenge executive power. The Georgia National Integrity System assessment also reports greater willingness on the part of judges to question and, in some cases, reject prosecutors' motions in criminal cases; a more prominent role played by judges in judicial appointments; limits on executive power to interfere in criminal investigations; less pro-government bias in the judiciary's handling of appeals during elections; and fewer cases of arbitrary secondment of judges to other courts as compared to four years ago.

Civil society and the media growing stronger and holding decision-makers to account

Georgian civil society has become increasingly successful in terms of holding the government to account, despite continued funding challenges. Following its rise to power, the current Georgian government was initially active in allowing greater civil society participation in policy-making. As a result, civil society was significantly strengthened and made considerable impact through continuous monitoring of government activity and a number of effective advocacy campaigns. Nevertheless, while Georgian CSOs generally operate without undue interference, the government's initial openness to CSOs has not been sustained, and top officials from the government and ruling party have recently made a number of aggressive statements against the country's leading CSOs, which could be perceived as an attempt to influence their work. Meanwhile the authorities have failed to take action against those committing violence against CSOs working on lesbian, gay, bisexual and transgender (LGBT) rights.

The media has also become more independent since 2011 and has been providing more diverse reporting on political issues, as well as better coverage of corruption. Transparency of the media has also increased through the introduction of legal provisions requiring disclosure of ownership and financing sources. However, a number of prominent cases point to continuing attempts at external interference in journalists' work, while media accountability and integrity remain problematic because of poor enforcement and, in some cases, the lack of relevant rules and codes of ethics.

³⁹ European Commission, *Implementation of the European Neighbourhood Policy in Georgia: Progress in 2014 and recommendations for actions*, (Brussels: EC, 2015b).

Business sector accountability remains weak

The legal framework for the business sector remains mostly business-friendly and businesses have witnessed fewer instances of undue government interference in their activities. However, there are still significant problems in terms of the transparency and accountability of companies, including the lack of effective mechanisms for identifying their beneficial owners, and the fact that effective integrity programmes remain the exception in Georgian companies. Anti-corruption mechanisms in state-owned enterprises remain particularly weak.

GEORGIA NATIONAL INTERGITY SYSTEM: STRONGEST TO WEAKEST INSTITUTIONS
Electoral management body
Supreme audit institution
Executive
Ombudsman (Public defender)
Law enforcement agencies
Media
Legislature
Judiciary
Political parties
Civil society
Business
Public sector

Key recommendations

- Parliament should adopt a more pro-active role in the oversight of the executive, while executive branch officials should respond to questions by members of parliament in a timely and comprehensive manner.
- The judiciary should address its negative public image by allaying suspicions regarding political influence on judges during trials of former officials and by ensuring the transparency of such trials.
- Government officials should refrain from making hostile statements against CSOs. All instances of harassment and violence against civic activists, in particular LGBT rights campaigners, must be investigated properly.

MOLDOVA

Moldova ranks 103 out of 174 countries in Transparency International's *Corruption Perceptions Index 2014*, with a score of 35 on a scale from 0 (highly corrupt) to 100 (very clean).⁴⁰ Recent national opinion polls suggest that corruption is among the top five concerns of citizens in the country. Reported bribery rates in the country remain relatively high, at an average of 29 per cent across eight public services, while the judiciary, political parties and parliament are perceived to be the sectors most affected by corruption.⁴¹ Ineffective checks on government power, impunity of government officials in regard to misconduct, and government interference in the delivery of civil and criminal justice are seen to be among the reasons why corruption levels in Moldova remain high.

In an effort to combat corruption in the country, a number of anti-corruption laws and policies have been introduced, including a law on asset disclosure by public officials, successive national strategies for preventing and fighting corruption, a law on conflicts of interest, a code of conduct for civil servants, a law on transparency in the decision-making process, a law on the National Integrity Commission, and stricter sanctions for corruption and illicit enrichment. Despite this raft of initiatives, most of the new regulations have remained largely ineffective, due to the lack of clear sanctions for non-compliance or because of limited political will to enforce them. Moreover, the recent decision by the Constitutional Court to considerably limit the applicability of the Law on Professional Integrity Testing is seen as a step back in Moldova's anti-corruption reforms.⁴² It is not surprising, therefore, that 60 per cent of citizens feel that the government is ineffective in tackling corruption in the country.⁴³

Judicial reforms proposed

The Ministry of Justice of Moldova recently proposed a new draft law that would require the General Prosecutor to be nominated by the President from a list of candidates proposed by the Supreme Council of Prosecutors (a professional body) rather than appointed directly by Parliament, as is currently the case.⁴⁴ This proposal was recommended by the Moldovan National Integrity System assessment as a measure to reduce the politicisation of the appointment procedure. The draft law is expected to be adopted by the summer of 2015, following discussions in parliament.

Weaknesses in democratic principles and transparency of political parties

The Moldovan National Integrity System is built on a relatively solid legal framework, as a result of the recent introduction of important judicial and anti-corruption reforms. The supreme audit institution and the executive are the strongest institutions in the integrity system, due to their high levels of transparency and their important role in promoting preventative anti-corruption measures. At the other end of the spectrum, political parties stand out as the weakest institution by some margin. Parties do not have well-developed internal democratic procedures, and the process of funding parties and electoral campaigns lacks transparency, while the ability of the electoral management body to oversee party operations is hampered by limited capacity to identify electoral fraud. At the same time, a number of institutions suffer from a shortage of financial, human and technical resources.

⁴⁰ Transparency International, 2014.

⁴¹ Transparency International, 2013a.

⁴² "Public call on the existence of indications of lack of objectivity of the Constitutional Court in examining the complaint regarding the constitutionality of certain provisions from Law no.325 of 23.12.2013 on professional integrity testing", *Transparency International Moldova* (web), 19 January 2015.

⁴³ Transparency International, 2013a.

⁴⁴ www.justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2015/aprilie/proiect.pdf

A highly politicised environment hampering democratic decision-making

The system is also weakened by consistent failures to adhere to legal requirements, including the lack of a proper competitive process for the selection of senior civil servants and public sector appointments as well as dismissals made on political grounds. Despite being the only parliamentary system among the five countries, parliamentary oversight is weakened by the confrontational and bipartisan nature of parliamentary debates. The parliamentary majority tends to defend the executive while the opposition regularly calls for the dismissal of the government without plausible motivation. Thus, motions of no confidence against the government tend to arise from changes in the balance of power among ruling parties. Political motivations are also evident in the dismissal of ministers, whereby certain criminal investigations against ministers are perceived as political persecutions.

Setbacks in anti-corruption reforms

The Moldovan judiciary is currently undertaking an important set of reforms under the Justice Sector Reform Strategy 2011–2016. However, the pace of reform, particularly for the Prosecutor's Office, is very slow and is perceived as being politically driven, with just over half of the proposed measures to be implemented by the end of 2013 having been completed on time.

A particular concern is the numerous allegations brought against judges by the National Anti-Corruption Centre and the fact that 80 per cent of citizens perceive the judiciary to be corrupt or extremely corrupt.⁴⁵ While, for the first time, several judges were convicted for receiving bribes in 2014,⁴⁶ these cases are relatively minor, and the general perception is that the judiciary continues to protect its own members. To compound the problem, judicial self-regulatory bodies lack the capacity to effectively oversee the work of the judiciary. The Superior Council of Prosecutors, for example, does not have its own budget, auxiliary staff or premises.

Civil society remains weak and politically influenced

While there have been no reported cases of direct government pressure on CSOs, there are concerns about favouritism towards allegedly politically-affiliated CSOs and the emergence of the so-called government organised NGO (GONGO) phenomenon. This is considered to have an impact on the distribution of public funds to CSOs, as illustrated by the case of one ex-minister who contracted services from an association he founded, or the case of the chairman of a public body who for many years targeted funds towards associations that he created. At the same time, CSOs suffer from a lack of transparency. For example, only 7 per cent of CSOs publish their financial and audit reports, making it difficult to ascertain where their funding comes from, and hence what political connections they may have. In this context, it is unsurprising that the impact of CSO advocacy on policy-making remains limited.

⁴⁵ Transparency International, 2013^a.

⁴⁶ European Commission, *Implementation of the European Neighbourhood Policy in Moldova: Progress in 2014 and recommendations for actions*, (Brussels: EC, 2015c).

**MOLDOVA NATIONAL INTERGITY SYSTEM:
STRONGEST TO WEAKEST INSTITUTIONS**

Executive

Supreme audit institution

Law enforcement agencies

Electoral management body

Public sector

Media

Anti-corruption agencies

Civil society

Legislature

Judiciary

Ombudsman

Business

Political parties

Key recommendations

- The government should accelerate the pace of judicial reforms, with a particular emphasis on reform of the Prosecutor's Office.
- All state institutions must ensure that candidates for high-level positions are selected through an open competitive process, as required by law, to minimise the politicisation of the public sector.
- CSOs should disclose information on their finances and activities to their beneficiaries and the general public in order to shed light on potential conflicts of interest.

UKRAINE

Country overview

According to Transparency International's *Corruption Perceptions Index 2014*, under the previous regime, Ukraine ranked 142 out of 174 countries, with a score of 26 on a scale from 0 (highly corrupt) to 100 (very clean), making it the worst performer of the countries assessed in this report.⁴⁷ Transparency International's *Global Corruption Barometer 2013* suggests that 95 per cent of citizens believed that corruption levels had either worsened or stayed the same over the previous two years, with the judiciary and the police being perceived as the sectors most affected by corruption.⁴⁸ State and regulatory capture at all levels of public administration are seen to represent one of the key features of corruption in Ukraine, most starkly illustrated by evidence of illicit enrichment among former President Yanukovich's closest allies.

Following the parliamentary elections held in October 2014, a new coalition agreement was signed, with anti-corruption reforms being one of the key priorities (see below). However, the success of these reforms is seriously jeopardised by the fact that the judiciary and law enforcement agencies fail to effectively enforce the existing rules. Failure to effectively investigate the alleged corruption offences committed under the Yanukovich regime, the emergence of new offences reported by the media during 2014, and the granting of public contracts to companies allegedly engaged in corrupt practices in recent years all add to the sense of impunity which prevails in the country.

Civil society taking the lead on anti-corruption reforms

During the Euromaidan protests, Transparency International Ukraine together with other CSOs, created the Reanimation Package of Reforms (RPR), a coalition that now consists of around 300 members including CSOs, investigative journalists, academics and leading civic experts.⁴⁹ Sustained engagement by the RPR and others led to the adoption of a package of anti-corruption reforms by Parliament in October 2014, including the development of a new anti-corruption strategy for 2014–2017, the launch of a National Agency on the Prevention of Corruption in April 2015, the drafting of a law on the National Anti-Corruption Bureau of Ukraine, as well as the drafting of legal amendments requiring the beneficial owners of companies to be made public.⁵⁰

Transparency International Ukraine has since taken a leading role in supporting the establishment of the new anti-corruption bodies. For example, on 24 April 2015, Transparency International Ukraine held a national expert discussion on the priorities and challenges for the new anti-corruption bodies, and it is now the co-facilitator of the Reform Support Center in the Cabinet of Ministers which monitors legislative anti-corruption changes in the Parliament through the Parliamentary Committee on Fighting Organised Crime and Corruption.

Effective oversight bodies critical to kick-starting anti-corruption reforms

Ukraine's National Integrity System is marked by a relatively strong executive and civil society sector, supported by comparatively effective oversight institutions (electoral management body,

⁴⁷ Transparency International, 2014.

⁴⁸ Transparency International, 2013a.

⁴⁹ http://platforma-reform.org/?page_id=351

⁵⁰ "Ukraine has adopted the laws for effective anti-corruption reform launching", *Transparency International Ukraine* (web), 15 November 2014.

ombudsman and supreme audit institution). This has resulted in the rapid introduction of a number of important pieces of anti-corruption legislation by the legislature and executive, as noted above, often in collaboration with civil society. Nevertheless, an important gap remains the lack of an anti-corruption agency, although such an agency is envisaged in the form of the establishment of a National Anti-Corruption Bureau and National Agency for Prevention of Corruption in 2015/2016.

Civil society gaining in importance

Civil society in particular is relatively strong thanks to a legal framework that generally protects CSOs from undue external interference, active CSO engagement in anti-corruption policy reforms, and an increased CSO role in holding government to account. Cases of government interference in CSO activities and prosecution of civil society leaders and activists have decreased since Transparency International Ukraine conducted the first National Integrity System assessment in 2010. There has also been an increase in the number of civic campaigns over the past five years, most notably the Euromaidan Movement, which demonstrated unprecedented levels of citizen mobilisation and self-organisation.

Weak political parties and a dependent public sector

In contrast, political parties and the public sector remain two of the weakest links in the National Integrity System. In the case of political parties this is due largely to a flawed legal framework, including the absence of any restrictions on the value of private donations to parties, and hence a strong dependence on wealthy donors, which severely limits the extent to which parties are able to represent societal interests. The public sector suffers from limited independence and lacks adequate resources to be able to play any meaningful role in the fight against corruption. While public procurement legislation has improved since the previous assessment in 2010, some important flaws remain and implementation of the new procurement legislation has proved problematic.

Unaccountable executive

The situation is compounded by the strong influence of the president over executive functions. The president has broad powers to influence the work of government, including: the power to determine foreign, national security and defence policy; to propose candidates for the positions of minister of defence and foreign minister; to issue binding decrees; to appoint heads of regional and local administrations; and to suspend any government decision he/she considers to be inconsistent with the constitution. At the same time the level of accountability of the executive is hampered by the regular failure of cabinet members (including, on occasion, the prime minister) to attend parliamentary questions, and by the practice of sending other representatives of the respective ministries. Recommendations issued by the supreme audit institution and ombudsman are frequently ignored, many parliamentary commissions of inquiry are concluded without ever producing reports and some important bills have been rushed through parliament without proper scrutiny.

Executive interference in the judiciary

Executive interference is also evident in the judiciary, in the form of alleged politically motivated appointments and removal of judges. This in turn diminishes the ability of the judiciary to hold the executive to account through effective judicial review, since the courts are highly politicised. Thus, prior to 2014, the courts adopted a number of controversial decisions in favour of those in power, including decisions to strip the mandates of two members of parliament on questionable grounds. It is not surprising, therefore, that 87 per cent of citizens perceive the judiciary to be corrupt or

extremely corrupt⁵¹ and only 46 per cent of Ukrainians believe that the courts consider their cases in an independent and impartial manner.⁵²

UKRAINE NATIONAL INTERGITY SYSTEM: STRONGEST TO WEAKEST INSTITUTIONS
Civil society
Executive
Ombudsman
Electoral management body
Supreme audit institution
Legislature
Judiciary
Media
Anti-corruption agencies
Law enforcement agencies
Business
Political parties
Public sector

Key recommendations

- The government should commence the comprehensive reform of the funding of political parties and electoral campaigns based on the provisions of the Council of Europe's Common Rules Against Corruption in the Funding of Political Parties and Electoral Campaigns.
- The government should establish without delay the National Anti-Corruption Bureau and National Agency for Prevention of Corruption, and ensure that they are able to exercise their powers by providing them with adequate resources.
- The government should adopt without further delay the Code of Administrative Procedures, and begin comprehensive reform of the public sector aimed at ensuring a professional civil service free of political interference.

⁵¹ Transparency International, 2013a.

⁵² TI Ukraine, 2015.

ANNEX: NATIONAL INTEGRITY SYSTEM ASSESSMENT METHODOLOGY

Corruption is a complex phenomenon that can take root in many areas of a society, whether in government or law enforcement, or among other actors like the media, business, and civil society. The National Integrity System assessment approach provides a framework for analysing the robustness and effectiveness of a country's institutions in preventing and fighting corruption.⁵³ When the institutions and sectors that make up the National Integrity System work together effectively, they allow the anti-corruption system to run smoothly. When one or more of the institutions is particularly weak, cracks appear, allowing corruption to seep into the system.

The National Integrity System is generally considered to comprise the following institutions: legislature, executive, judiciary, public sector, law enforcement agencies, electoral management body, ombudsman, supreme audit institution, anti-corruption agencies, political parties, media, civil society and business. In some cases certain institutions are not covered or additional institutions are assessed, depending on the country context. Each of the institutions and sectors included in the National Integrity System is assessed along three dimensions that are essential to its ability to prevent corruption:

- its overall capacity in terms of resources and independence
- its internal governance regulations and practices, focusing on whether the institution is transparent, accountable and acts with integrity
- the extent to which the institution fulfils its assigned role in the anti-corruption system, such as providing effective oversight of the government (for the judiciary) or preventing and investigating corruption (for anti-corruption agencies).

The assessment examines both the legal framework and the actual institutional practice, thereby highlighting discrepancies between the formal provisions and the reality on the ground. The assessment is primarily qualitative, using a combination of primary and secondary data, including national legislation, secondary reports and research, interviews with key experts and other sources.

National Integrity Systems assessments have been conducted in over 100 countries to date, providing Transparency International chapters with strong evidence to push for much needed reforms to strengthen the anti-corruption systems in their countries. Since the assessment exercise seeks to involve the wider anti-corruption community in its process, strong local ownership helps ensure an effective uptake of the emerging recommendations into advocacy and policy reform initiatives.

⁵³ The full methodology can be found here: www.transparency.org/files/content/nis/NIS_Background_Methodology_EN.pdf

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