



Building Partnerships in the Republic of Georgia: Tracking the Administrative Code

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On July 23, 1999 the Parliament of Georgia adopted the General Administrative Code, the aim of which is "to ensure respect by administrative bodies for human rights and freedoms, public interests, and rule of law." This Code includes extensive provisions dealing with freedom of information and the transparency of public agency meetings.

The Code's Freedom of Information provisions established a set process to seek information and appeal if requests are denied. Granting individual citizens the power to obtain information on the activities of local officials or agency spending dramatically changes the political culture. Each request for information may not be of monumental importance individually, but taken together and multiplied throughout the country it forces government institutions at all levels to become more accountable.

CIPE's local partner, the Partnership for Social Initiative (PSI), has taken a leading role in monitoring the proper enforcement of the Code. According to Executive Director, Devi Khechinashvili, "PSI is engaging the business community and civil society in the policy-enforcing process to ensure the desired impact on government agencies." PSI began by conducting a nationwide analysis of public perceptions and understanding of the provisions of the Code. PSI found that the government had done little to make the public aware of the Code and its provisions and 24 percent of business owners had no knowledge of the Code at all.

PSI's analysis also made clear that government agencies are not applying a number of the Code's provisions in the way the law stipulates. This is partly due to lack of financing of administrative bodies, insufficient internal management, and the perception of public officials that under present conditions they will never be held responsible for ignoring the legislation. Also, while executive government agencies (Ministries) are more or less aware of their responsibilities under the Code, this is not the case with the regulatory agencies which are by law independent of the political process and thus are less inclined to abide by the rule of law.

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Business Monitoring of the Georgian Administrative Code

PSI also surveyed businesses and civil society groups to identify concrete experiences and outline specific issues when attempting to use the Code. In addition to distributing their questionnaire within the business community, PSI advertised their survey in newspapers, association newsletters, and on state television, soliciting responses from civil society at large.

The most blatant and widespread violations of the Code were identified based on the number of organizations impacted and the importance to the country's economy and development of a free market. The goal was to determine the extent to which government agencies comply with the Code and any follow-up court actions or actions by oversight agencies. In 20 percent of cases, government agencies failed to respond to information requests and only responded when PSI sent them and "administrative warning." PSI was forced to file suit against one agency, the Ministry of Finance, for its refusal to respond, demonstrating that the Code is enforceable and requests for public information can be satisfied.

PSI has shown that appropriate implementation of the Administrative Code is possible through the efforts of interested citizens and informed courts. PSI built a coalition of 70 stakeholders and members of businesses and non-governmental organizations that expressed interest in the Administrative Code and were in a position to contribute their efforts to monitoring and advocacy activities.

Freedom of Information

According to the Freedom of Information provision within the Administrative Code, each government institution must designate an office or officer to handle applications/requests/inquiries from the public. Any citizen has the right to obtain information from any government institution on a timely basis. However, financial and procedural impediments prevent the Code from functioning properly. Information offices at many agencies remain vacant due to a lack of funding for staff. In those cases where such an office exists, the employee delegated with this responsibility is part-time and primarily performs other duties, which often leaves information requests neglected.

PSI also found that the majority of requests that government institutions receive are from private individual citizens, NGOs and large and medium sized businesses. PSI held a series of roundtables in order to determine and address the specific reasons why small businesses are abstaining from requesting information from public institutions. The reasons cited by small businesses included a lack of resources to sort out complex administrative procedures or deal with unresponsive agencies. Their perception and experience was that the process to receive information was too time consuming and required insider connections and/or bribes.

To help educate businesses and the public about their rights to receive information from government agencies PSI published a booklet entitled the "Business Monitoring of Implementation of the General Administrative Code" in May 2002. The booklet provides

a legal analysis of the various components of the Administrative Code as well as the results of its surveys. The booklet was distributed to individual businesses, business associations, governmental officials, academics, think-tanks, and the media.

Creating a public-private partnership

To achieve lasting market reform, the private sector must play an active role in the policy-making process. In Georgia, however, PSI's research found civil society groups and business associations are failing to take advantage of advocacy opportunities with policy makers. Public officials, on their part, do not feel a need to include the public in the decision-making and legislative process, and argue that the Code does not provide for such an obligation. While some agencies believe that allowing civil society organizations to participate in decision-making will interfere with state interests, others simply lack awareness of the organizations that share their area interests.

To address this problem PSI developed a model for accrediting business associations. The goal of this activity was to provide a list of associations and other civil society organizations with specific issue interests or expertise that agencies can contact for input on proposed policy changes and reforms. PSI has established a pilot program with the Georgia National Center of Intellectual Property in which this agency has agreed to consult with the private organizations on its list. This pilot program serves as a model for developing similar accreditation processes at other government agencies. By matching business and professional associations and other stakeholders with government agencies, the extent of participation by civil society in the decision making process can be dramatically improved.

Case Studies

Association of Banks of Georgia and Pension Payment Tender

The issue of pensions is one of the most important political questions facing the country due to the level of dependency on this assistance and the government's difficult budget situation. Poor and corrupt management of funds by government administrators often causes delays in pension payments of up to three months. When the State United Social Fund of the Ministry of Health, Labor and Social Protection announced a tender to select a bank that would distribute pension to citizens across Georgia, the Association of Banks of Georgia (ABG) requested assistance enabling its representative to join the decision-making commission.

PSI and the Coalition launched an advocacy campaign targeting government officials and the public to ensure that ABG was included as a member of the tender commission. This helped determine the terms of the tender and helped choose the winner during the competition. This was the first time that a business association was permitted to participate at such a high level of decision-making.

Poverty Reduction and Economic Growth Program (PREGP)

PSI's coalition members were determined to be included in developing Georgia's Poverty Reduction and Equitable Economic Growth Program. Using the rights provided by the Administrative Code, the Coalition gained access to the information on the structure of the draft document and program indicators that are being used to write the document. As a result of an active advocacy campaign, Dr. David Gzirishvili, PSI's Senior Fellow and Director of its Center of Social Welfare, was appointed by the government as an expert in the PREGP preparation process.

Conclusion

As a result of PSI and Coalition activities with the Poverty Reduction and Economic Growth Program and the State United Social Fund, the participation of civil society and business associations in the development of public policy reforms has dramatically increased. These fundamental cultural changes in the relationship between the public and private sector is only possible because of the Administrative Code and PSI's continued advocacy for better implementation. The transparency and decision-making provisions of the Code are integral in convincing and forcing government agencies to give civil society groups a role in policy-making. The ongoing work of the Coalition in providing independent oversight of the administration of the Code is a good example of how NGOs can serve the interests of society in a way that government agencies cannot.