

## Promoting Government Accountability and Social Participation

In the mid-1990s, most private businesspeople in Georgia felt that they were caught in a “no-man’s land” between the command economy and a market economy. The Georgian Parliament passed 700 new pieces of legislation over five years to help create the legal framework for a market economy. Yet the legal transition was hampered by a lack of mechanisms for effective implementation, administrative lethargy, and contradictions among the different laws.

In a move toward greater reform, Parliament adopted the General Administrative Code in July 1999 – legislation that aimed to “ensure respect by administrative bodies for human rights and freedoms, public interests, and rule of law.” The code outlined extensive freedom of information provisions, including a process to seek information from government agencies, and laid out regulations to ensure transparency of public agency meetings.

The adoption of this legislation was an important step toward creating a balance between social and state responsibility. The code not only ensures Georgian citizens the opportunity to participate in the decision-making process, but also allows for the promotion of transparency, increased accountability in the work of the government, and a reduction of corruption. From an institutional point of view, and in all sectors of society, the Administrative Code is critical to strengthening democracy and freedom in Georgia.

Although enacting the code was in itself an important step toward reform in Georgia, its implementation was slow and ineffective. Few parts of the executive branch of the government followed its requirements, thus handicapping the effectiveness of the law. At the same time, civil society organizations, the media, and the business community lacked awareness of the code and

its components, and furthermore had mistrusted the government ever since Communist rule.

## **Creating Business Opportunities through Enforcement**

The proper implementation of the code was especially important for the business community. Were the code to be enforced consistently, it would enable businesses to work more effectively and would reduce the administrative barriers that hindered the transition from the informal sector to the formal. The potential for enhancing the overall business environment meant the business community had a strong interest in ensuring implementation and enforcement of the code.

The Partnership for Social Initiative (PSI), a non-governmental think tank in Georgia that was established soon after the code was adopted, took the lead in monitoring the proper enforcement of the code. PSI partnered with the Center for International Private Enterprise (CIPE) on a project that aimed to demonstrate how the rule of law contributes to a democratic society. By building a coalition of business and professional associations and other non-governmental organizations to generate public support for the enforcement process, PSI sought to ensure a better climate for cooperation between the business community, members of parliament, and the government.

CIPE worked closely with PSI to relay the importance of public involvement in the decision-making process for democratic governance to take root. CIPE equipped PSI with best practices in coalition building and advocacy based on practical case studies shared by CIPE's network of partners around the world.

**Government agencies were pressed to implement sections of Georgia's Administrative Code that guaranteed transparency. Civil society and the business community are now more equal participants in the decision-making process of public institutions.**

## **Identifying and Overcoming Challenges**

PSI chose to use a two-stage approach to examining the code. It first composed a project working group, which, together

with expert lawyers and sociologists, conducted research and analysis of each chapter of the code to reveal contradictions, imperfections, and vague articles. Second, the working group conducted a number of survey polls among private entrepreneurs and other professionals to determine what problems had emerged during the code's implementation and to gain an understanding of how they could be solved.

PSI's analysis revealed that the code is a high-quality legal document and that, if fully enforced, it can ensure the transparency of administrative bodies and promote the participation of society in governmental and regulatory decision making. Further investigation revealed, however, that a number of the code's provisions were never applied in accordance with the law – due to the meager financing of administrative bodies, improper internal management, and the perception that under present conditions, public officials could not be held responsible for ignoring the legislation.

In order to gauge the opinions and experiences of a broad sector of Georgian society, PSI distributed questionnaires within the business community and advertised its survey in newspapers, association newsletters, and on state television. The goal of this process was to determine the extent to which government agencies complied with the code and the possible action by the courts or oversight agencies when the government failed to adhere to the rules. These surveys of business and civil society groups identified concrete experiences and outlined specific problems encountered when attempting to use the code. For example, in 20 percent of the cases reported, government agencies failed to respond to information requests and only responded when PSI sent them an “administrative warning.” When the Ministry of Finance did not respond to a warning, PSI filed a suit against the ministry. This suit demonstrated that the code is enforceable and that requests for information can and must be satisfied.

The survey found that 24 percent of entrepreneurs knew nothing about the Administrative Code, that small businesses had to attain information through acquaintances or bribes, and that small businesses did not make an effort to participate in the

preparation of administrative acts. Based on these findings, PSI resolved to raise awareness among the business community and the population regarding the contents of the code and the rights it is designed to secure. In order to educate businesses and the public about their rights to receive information from government agencies, PSI published a booklet, “Business Monitoring of Implementation of the General Administrative Code,” in May 2002. The booklet provided a legal analysis of the various components of the Administrative Code as well as the results of the survey.

PSI also organized an advocacy coalition of 70 business and non-governmental organization representatives who expressed an interest in the Administrative Code or who were in a position to contribute to the monitoring and advocacy activities of the project. Among other benefits, coalition members received training in how the code applied to their work. This knowledge has advanced coalition members’ business interests and has also served as a platform to build strong relationships between members in order to promote mutual interests. The project as a whole brought together a large group of stakeholders from a wide spectrum of Georgian society. It was also the first non-governmental coalition in Georgia that included stakeholders beyond NGO representatives.

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## Measures of Success

PSI’s tenure has been marked by a number of achievements. Prior to PSI’s activism, for example, state procurements in Georgia were an important source of income for many businesses while at the same time the business community had no role in assessing or considering tenders. Equally unsettling was that the procurement process was undermined by corruption. When a fund of the Ministry of Health, Labor, and Social Protection announced it would be accepting bids in order to select a bank that would distribute pensions across Georgia, the Association of Banks of Georgia (ABG) requested to join the decision-making commission. PSI and the coalition launched an advocacy

campaign to ensure ABG was included as a member of the commission. The campaign was successful and marked the first time a business association was permitted to participate at such a high level of decision making.

The PSI coalition also played an active role in developing Georgia's national Poverty Reduction and Economic Growth Program. Exercising 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 were being used to write the document. As a result of another advocacy campaign, the director of PSI's Center for Social Welfare was appointed by the government as an expert in the planning process.

PSI has broken ground in making civil society and the business community more equal participants in the decision-making process of public institutions, and has increased awareness in government circles about public concerns for better access to information through the Administrative Code. There have been fundamental cultural changes in the relationship between the public and private sectors, only possible because of the Administrative Code and PSI's continued advocacy for better implementation.

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*The activities described in this case study were funded by the National Endowment for Democracy.*

**Source**

Elena Suhir, "Building Partnerships in the Republic of Georgia: Tracking the Administrative Code," *Economic Reform Feature Service* (Oct. 21, 2002).