

2015-11-20

## Fråga-svar

### **Georgien. Påtryckningar mot tjänstemän, korruption och polisen**

#### **Fråga**

- **Förekommer påtryckningar mot lägre tjänstemän som arbetat under den gamla regimen?**
- **Vilka åtgärder har vidtagits för att bekämpa korruption?**
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#### **Svar**

##### **Förekommer påtryckningar mot lägre tjänstemän som arbetat under den gamla regimen?**

Enligt den georgiska NGO:n Human Rights Center (HRIDC) förekom påtryckningar gentemot "local government officials" efter valet, med uppsägningar som resultat. HRIDC (2015):

Alleged political dismissals were frequent during 2013-2014 years. NGOs are actively talking about the alleged political dismissals in the local government bodies.

According to the dismissed local government officials, they were subject to the pressure and threats from the high officials of the local government bodies – city halls and municipalities. They attribute their dismissal to their political views.

According to the Public Defender of Georgia, often the officials are dismissed as a result threats and pressure (according to their explanation). (s. 28)

Även i sin årsrapport från 2014 skriver Freedom House att många "civil servants" tvingades säga upp sig efter parlamentsvalet. Freedom House konstaterar att senare lagändringar gjort dylika påtryckningar till ett brott. Anställningsproceduren anses dock fortfarande brista i oberoende. Freedom House (2014):

Following the 2012 parliamentary elections, many civil servants were reportedly forced to resign, replaced by persons without formal qualifications.

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Georgia's civic sector remains vulnerable to government pressure, particularly in election seasons. Within months of Georgian Dream's 2012 electoral victory, 5,149 civil service employees had left their jobs. Forty-five percent (2,330) of these employees resigned and 11 percent were dismissed. With unemployment in Georgia at 12 percent at the end of 2012, the high number of voluntary resignations raises suspicions that employees had been coerced into leaving. Former employees of the defense ministry, which dismissed 690 employees, reported they were given prewritten resignation letters to sign. In March, an amendment to the criminal code made coercing a staff member into resigning a criminal offense, punishable by a fine or up to two years in prison.

The criteria by which public servants are appointed still lack transparency. After the elections, only 4 percent of some 6,500 new members of the public service were appointed through a competitive process. At the Interior Ministry, 897 people were dismissed and 1,012 others appointed.

Kanadensiska Immigration and Refugee Board (IRB) har från olika källor sammanställt ett antal olika uppgifter om tvingade avsked. IRB (2015):

Country Reports 2013 reports on dismissals of government employees from local government institutions for their alleged association with former ruling party UNM (US 27 Feb. 2014, 1). According to an article published in the Caucasian Knot, a website that aims "to ensure free access to truthful and non-engaged information" about events in the region (Caucasian Knot n.d.), NGOs, including TI Georgia, reported on the dismissal of officials of the Tbilisi Mayoralty "on political grounds," and on the alleged preparation of the Tbilisi Mayor to "dismiss older staff members for political reasons" (ibid. 10 Oct. 2014). Similarly, Human Rights Watch reports that shortly after the elections in 2014, "a number of employees of Tbilisi municipality reported pressure on them to 'voluntarily' resign from their jobs or face criminal prosecutions" (Human Rights Watch 29 Jan. 2015, 253). The source states that the International Society for Fair Elections and Democracy (ISFED), a local election-monitoring group, reported that between 1 August and 7 September 2014, "Tbilisi City Hall dismissed 155 employees including 115 based on 'voluntary' resignation letters, allegedly written under pressure, raising concerns that they had been targeted

for their political affiliations" (ibid.). In contrast, according to the Caucasian Knot article, Tbilisi authorities "emphasized that the Mayorality continues to employ 95 percent of its staff members, who worked prior to the arrival of the new City Mayor" (10 Oct. 2014). In relation to the dismissal of local government employees for their alleged association with the UNM, Country Reports 2013 notes that the government's response has been "insufficient" (US 27 Feb. 2014, 1). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. (s. 6)

United States Department of State (US DOS) årsrapport för 2013, som IRB hänvisar till ovan, ger även exempel på specifika yrkesgrupper som avskedats. US DOS (2014):

There were a number of instances of newly appointed officials dismissing public servants, including city hall and mayoral staff members and school, cultural center, and fire department employees. According to ISFED estimates, there were 1,877 local resignations and dismissals between the October 2012 parliamentary elections and February 28. In many cases dozens of employees submitted resignation letters the same day, which raised doubts about whether they resigned willingly or under pressure. ISFED reported that, in some cases, the dismissed public servants confirmed they resigned under pressure from their supervisors. ISFED reported that only six municipalities of 55 announced a competition to hire new employees. In the remaining municipalities "hiring decisions were mostly based upon party affiliation or familial ties."

Även Transparency International konstaterar i en rapport publicerad innan maktskiftet att det råder brist på oberoende bland tjänstemän då ministrar har mycket inflytande över anställningar, något som kan förklara vågen av avsked under 2012 och 2013. Transparency International (2010):

Our analysis also suggests that the civil service lacks independence because of the influence ministers can exert in hiring, promoting and, particularly, firing civil servants. While there are some legal hurdles to arbitrary dismissal, they are rarely put into practice. It is still commonplace for new ministers to demand significant changes in staffing, even among fairly junior staff.

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Civil servants, who are often members of the ruling party, are often complicit with the government in utilising government programs and resources for political ends. (s. 5)

Flera källor har noterat att ett antal högt uppsatta medlemmar av UNM arresterats eller blivit föremål för brottsundersökningar efter valet (se bl a Freedom House, 2015 och US DOS, 2015, s. 15-18). Enligt United States Congressional Research Service har det även förekommit arresteringar av tjänstemän. United States Congressional Research Service (2013):

In January 2013, the Ivanishvili government continued to launch investigations and to arrest former government officials and civil servants (s. 38)

På ett mer allmänt plan konstaterar US DOS att godtyckliga arresteringar förekommer och att rätten till föreningsfrihet inte alltid respekteras fullt ut. US DOS (2015):

The constitution and law prohibit arbitrary arrest and detention, but the government's observance of these prohibitions was uneven. (s. 11)

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The constitution and law provide for freedom of association, but the government's respect for this right was selective. There were allegations of pressure on political opposition figures and supporters, central and local self-government employees, teachers, and union members, including surveillance and actual or threatened job loss (see section 7). (s. 33)

IRB skriver även att det förekommit trakasserier av UNM-medlemmar på lokalnivå, men menar att det inte skett systematiskt. IRB (2015):

Sources note that after the 2012 parliamentary elections, there were reports of harassment against UNM members (US 27 Feb. 2014, 2; Professor 17 Apr. 2015); "at the local level" (ibid.). Sources report that there have been acts of violence against UNM members (ibid.; HRIDC 23 Apr. 2015; Human Rights Watch 29 Jan. 2015, 252). According to the HRIDC representative, "[t]hough UNM members sometimes experience violence because of their political affiliation, these [incidents] are not widespread" (23 Apr. 2015). (s. 5)

IRB går sedan i detalj in på vilka incidenter det handlar om.

### **Vilka åtgärder har vidtagits för att bekämpa korruption?**

Freedom House beskriver i årsrapporten för 2015 vilka åtgärder som gjorts för att stävja korruption. Freedom House (2015):

Georgia's anticorruption reforms, implemented in 2004, largely eliminated petty corruption. More recent initiatives to fight corruption in Georgia include the formation of an effective State Audit Office and the introduction of an e-procurement system. However, Transparency International has recommended that Georgia establish an independent anticorruption body that can investigate and prevent crimes committed by high-ranking officials, develop better mechanisms to verify public officials' asset declarations, and introduce adequate mechanisms to investigate crimes committed by law enforcement agencies. Georgia ranked 50

out of 175 countries and territories in Transparency International's 2014 Corruption Perceptions Index.

US DOS skriver om åtal som väcktes för korruption efter valet 2012. US DOS (2013):

The law provides criminal penalties for corruption by officials, and the government implemented the law effectively against low-level corruption. According to survey data, less than 1 percent of the population reported paying a bribe in the previous year to obtain a public service. However, allegations of high-level corruption persisted, and after parliamentary elections in October more than 25 high-level former government officials were indicted on corruption-related charges.

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The Prosecutor's Office took steps during the year to curb bribery, prosecuting 23 public officials for accepting bribes, all of whom were convicted. The Ministry of Justice's Inspector General's Office actively enforced internal ethics and disciplinary rules in the Prosecution Service.

I en utvärdering av rättsväsendet skriver US DOS (2015):

The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns about the professionalism of civil judges and transparency in their adjudication. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including unlawful human rights violations, is entitled to bring a civil action. Individuals have the right to appeal court decisions involving the alleged violation of the European Convention on Human Rights by the government to the ECHR after they have exhausted domestic avenues of appeal. (s. 25)

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The law provides criminal penalties for corruption by officials, and the government implemented the law effectively against low-level corruption. According to survey data, 4 percent of the population reported paying a bribe in 2013 to obtain a public service. (s. 42)

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During the year the government adopted several measures to increase efficiency, transparency, and public accountability of government agencies, including regulations regarding the allocation of monetary bonuses to civil servants and a regulation on the purchase and usage of government-owned vehicles, which contributed to the reduction of corruption. The Ministry of Justice Inspector General's Office actively enforced internal ethics and disciplinary rules in the Prosecution Service. (s. 44)

Franska migrationsmyndigheten OFPRA, Office Français de Protection des Réfugiés et Apatrides, var månaderna innan parlamentsvalet 2012 på en informationsinhämtningsresa i Georgien. I rapporten står att åtgärder mot korruption har genomförts både i den offentliga och den privata sektorn och

att lagstiftningen ger skydd både till vittnen och till offer i korruptionsfall. Man har också höjt lönerna för tjänstemän i syfte att stävja systematisk korruption. Ordningsspolisen anses ha varit synnerligen korruperade och har stått i centrum för reformarbetet. Förändringar inkluderade höjda löner, civilklädda poliser som kontrollerar att nyanställda följer reglementet och att den som ertappas med att ta emot mutor avskedas. En telefonlinje dit allmänheten kan ringa för att lämna in klagomål för mutbrott inom polisväsendet inrättades. Klagomål kan även bland annat lämnas in till åklagarmyndigheterna och till Ombudsmannen. Korruptionsfallen tas sedan upp till brottmålsdomstolen. OFPRA framhåller dock att reformerna inte genomförts problemfritt och att med undantag för ordningsspolisen så har kriterierna för avsked inte alltid varit tydliga. Vissa avsked upplevdes som godtyckliga och ledde till massprotester och även i vissa fall att man sållade sig till oppositionen. Många avskedade började jobba inom den privata sektorn medan andra fick andra tjänster inom poliskåren. Även om korruptionen i alla fall innan maktskiftet 2012 ansågs kvarstå på högre nivåer så anses förbättringarna vara avsevärda (OFPRA, 2013, s. 49-51). Se nedan för fullt textutdrag ur rapporten.

OFPRA (2013):

Les nouvelles mesures anti-corruption s'appliquent au secteur public comme privé. La législation offre par ailleurs une protection aux témoins et victimes dans les affaires de corruption. Des parrains du crime renommés, des hauts responsables du gouvernement et des hommes d'affaires soupçonnés de corruption ont été arrêtés. Entre 2003 et 2010, 995 fonctionnaires ont été poursuivis. Afin d'éliminer la corruption systémique héritée du système soviétique, l'augmentation du budget du ministère a par ailleurs vu les salaires de ses fonctionnaires considérablement révisés à la hausse.

La police de patrouille, principal bastion de la corruption au sein des forces de sécurité, a été particulièrement ciblée par la réforme. Le montant des dessous-de-table perçus par un agent de la police de patrouille était ainsi estimé entre 2 000 et 20 000 USD en fonction de son lieu de stationnement. En 2005, 16 000 membres de la police de patrouille ont été licenciés en une nuit, avant d'être remplacés par 2 300 agents quelques mois plus tard. L'ensemble du personnel de police licencié a perçu deux mois de salaire et a été amnistié pour ses crimes. Seules quelques personnes ont été poursuivies en raison de leur implication dans des crimes graves.

Enfin, afin de lutter contre la corruption, les salaires des agents de la police de patrouille ont été augmentés pour atteindre entre 400 et 500 USD mensuels. Des policiers sous couverture ont été chargés de vérifier que les nouvelles recrues respectaient bien les nouvelles règles en vigueur. A titre de mise en garde, les officiers de police pris en flagrant délit de solliciter ou d'accepter un dessous-de-table ont été licenciés. Une hotline fonctionnant 24 heures sur 24 a été instaurée afin de permettre au public de porter plainte contre toute tentative de corruption de la part des membres de la police. Une telle

plainte peut également être déposée auprès du Parquet, de l'Ombudsman ou d'une ONG.

Ces affaires de corruption sont portées devant la Cour pénale (Criminal Court). Certaines nouvelles recrues se sont ainsi vu révoquer pour non-respect du protocole, perception ou sollicitation de dessous-de-table, ou pour abus de pouvoir en raison notamment du nouveau prestige que leur offraient leurs nouveaux uniformes et leurs voitures de police neuves.

En matière de restructuration et de lutte contre la corruption des écueils sont toutefois à mettre en exergue. Ainsi, à l'exception du Département de la police de patrouille, les critères employés en matière de licenciement n'ont pas toujours été clairs. Une étude réalisée par l'ONG Transnational Crime and Corruption Center (TraCCC) fait état de cas de nombreux policiers licenciés sans critères explicites alors mêmes que leurs services respectifs n'avaient pas été l'objet de fermeture ni d'absorption dans d'autres services. Ces révocations, parfois jugées arbitraires, ont donné lieu à des protestations de masse de la part des personnels de police à Tbilissi, Koutaïssi et Gori. Parmi les mécontents, un certain nombre a rejoint les rangs de l'opposition, protestant contre la mise en oeuvre de réformes inappropriées. La plupart des agents licenciés a toutefois rejoint le secteur privé sans rechigner, tandis que 33% d'entre eux ont été recrutés de nouveau au sein de la police mais affectés dans de nouveaux services.

Transnational Crime and Corruption Center (TraCCC) estime pour sa part que la corruption politique et de haut niveau continue d'exister, en particulier au travers de l'usage abusif des ressources administratives par les organes politiques désireux de se maintenir au pouvoir. Cette ONG cite le cas du dirigeant de l'opposition et homme d'affaires milliardaire, Bidzina IVANICHVILI, à la tête de la coalition politique Rêve géorgien, accusé de blanchiment d'argent après qu'en octobre 2011 la police a arrêté des véhicules transportant des fonds importants à destination de la banque Cartu lui appartenant. En 2012, l'argent a en effet été rendu à l'établissement bancaire sans aucune explication.

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Force est d'admettre qu'en une courte période la Géorgie est néanmoins parvenue à réduire la corruption de manière notable. En 2010, dans son baromètre de la corruption globale, Transparency International rangeait ce pays au premier rang de ceux ayant relativement réduit leur niveau de corruption. Le même rapport plaçait la Géorgie au second rang des Etats dont la population estimait qu'il luttait efficacement contre le phénomène. En 2010, seulement 2% de la population rapportait ainsi avoir payé un dessous-de-table au cours des douze mois précédant le rapport de Transparency International. (s. 49-51)

## **Anses den georgiska polisen vara korrumberad? Finns det en hotbild mot poliser som arbetat under den förra regeringen?**

Utöver information som sammanställts nedan rekommenderas läsning av ett tidigare fråga-svar från Lifos, [Georgien. Arresteringar av tjänstemän inom säkerhetstjänsten](#) (2013), samt en sammanställning gjord av irländska Refugee Documentation Centre, [Georgia: Information required on the following aftermath of the election on 02 October 2012](#) (2012).

I en respons av kanadensiska IRB framgår av obekräftade uppgifter att polisanmälan inte alltid registreras. Det redogörs även att det saknas en oberoende instans som kan undersöka brott begångna av poliser. IRB (2015):

According to the GYLA representative, the police often refrain from registering complaints to conceal the real statistics of crime, and to avoid backlogs (GYLA 2 Mar. 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In contrast, Light indicated that the police system in Georgia has improved in terms of taking complaints from individuals and explained that the patrol police are supposed to record any complaint they receive, "no matter how trivial" the matter (Light 17 Mar. 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Further information about the effectiveness of police response to complaints filed by victims of crime could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

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According to Section 56(1) of the Police Law of Georgia, "a person who believes that his/her rights and freedoms have been violated by action of a police officer shall have the right to appeal against that action to a superior official, the Prosecutor's Office, or to the court as provided for by the legislation of Georgia" (Georgia 2013, Sec. 56(1)).

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In a chapter on urban policing in Georgia in the book *Policing Cities: Urban Securitization and Regulation in a 21st Century World*, published in 2013, Matthew Light writes, "many observers criticize the continuing lack of civilian oversight [of the MIA]"; the MIA remains responsible only to its minister and President Saakashvili (Light 2013, 46). Light also states that "many human rights advocates claim that the MIA lacks a transparent system to address complaints," and notes that while the "courts convict nearly all civilians accused of crimes, police are rarely prosecuted for misconduct" (ibid).

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In relation to complaints addressed by its office in 2014, the Public Defender's 2015 report states that

[a]ccording to the cases examined by the Public Defender's Office, it becomes clear that frequently occurrences of ill-treatment are not given proper legal qualification. In particular, the investigation is initiated under lighter provisions - of abuse of power, while the Criminal Code of Georgia specifically provides for torture, inhumane or degrading treatment.... Additionally, jurisdictional matters still remain problematic, in particular - the conduct of professional assessment/investigation is made by the same law enforcement agency, whose representative is suspected of having committed a misconduct/crime. The latter initially calls into question impartiality of the investigation. Therefore, it is necessary to establish an independent investigation mechanism. (Georgia 2015, 14)

I US DOS landsrapport för 2014 anges att polisövergrepp inte alltid anmäls eller utreds och att det finns brister i arresteringsförfarandet. I valtider har oppositionen inte skyddats tillräckligt. Dock anses bekämpningen av korruption på lägre nivåer fortfarande vara effektiv.

US DOS (2015):

NGOs and the public defender maintained the incidence of police abuse was higher than the number of cases investigated by the prosecutor general and that failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. (s. 12)

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GYLA criticized the fact most arrests were made without a warrant based on "immediate necessity" and that courts later substantiated police action in almost all cases. The public defender considered unsubstantiated arrest warrants to be a systemic problem characteristic of most courts. (s. 13)

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Throughout the pre-election campaign, there were reports of aggression from individuals targeting members of the UNM opposition and insufficient protection of the freedom of association by security officials. (s. 33)

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The law provides criminal penalties for corruption by officials, and the government implemented the law effectively against low-level corruption. According to survey data, 4 percent of the population reported paying a bribe in 2013 to obtain a public service. (s. 42)

Enligt en analys av The Central Asia-Caucasus Analyst (CACI) så är den nya regeringen mer intresserad av att arrestera oppositionen än göra polisens arbete mer transparent. Artikeln framför också att eftersom verkställande minister ansvarig för polisväsendet får tillhöra ett politiskt parti, så skickar detta signaler längre ned i leden om vilken politisk lojalitet som råder.

Polisen anses på det hela ha mer ansvarkrävande gentemot politiker än mot allmänheten. CACI (2014):

Yet, critics of the new leadership argue that the government's openness to public input is temporary and is rapidly waning. According to one former member of the Saakashvili administration, "The government was open the first year because it lacked confidence." According to this view, the ministry is more interested in prosecuting its opponents than improving respect for human rights among police personnel and opening up to public oversight.

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Finally, complaints from NGOs about the MIA's transparency issues increased again in late 2013 and 2014, voicing dissatisfaction with the new government's approach to depoliticizing the police. According to GYLA, measures to reduce the ability of incumbent political leaders to use the police against opponents are insufficient. The new police law continues to allow the deputy interior minister to belong to a political party, sending signals about his political loyalty further down the chain of command to regular police officers.

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In December 2013, the Public Defender released a report on human rights and freedoms in Georgia for the year 2013. The report commends the MIA for its efforts to destroy unlawful recordings of citizens' personal lives after the illegal surveillance project was leaked to the public earlier that year. However, the report also noted the state's frequent failure to ensure the right to assembly and religion, its unlawful suspension of public servants, its unjust treatment of citizens by police authorities, its over-tolerance of violence against women and children, and its lack of healthcare and programs for the disabled. Likewise, NGOs have repeatedly raised concerns about cases of alleged ill-treatment of citizens in police custody and violence implemented by representatives of police and penitentiary institutions.

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Despite a strong civil society and political opposition, it is easy for political incumbents to expand the police's functions in order to intensify their political influence. Georgia has made some positive steps towards opening the MIA to public oversight. Yet, there is still a long way to go before police become accountable to the public rather than the political brass.

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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

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(alla källor hämtade 2015-11-10)

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