

Business Monitoring of the General Administrative Code of Georgia
Report no. 4: December 1, 2001 – March 14, 2002

During the last three and a half months PSI working group and the Coalition have been continuing their monitoring and advocacy activities. In particular, they have been working on the following issues:

- 1) Public relations campaign to help educate the society on the Administrative Code;
- 2) Ways in which business associations can engage in the decision making process;
- 3) Monitoring of cases related to the implementation of the Administrative Code;
- 4) Participation of the civil society in the Poverty Reduction Program-related issues;
- 5) Ways to fight administrative barriers.

I. Seminars conducted by the Business Coalition

Through the reporting period the Coalition has conducted a total of five seminars in the following order:

- Seminar no. 1 – December 17, 2001
- Seminar no. 2 – January 15, 2002
- Seminar no. 3 – February 4, 2002
- Seminar no. 4 – February 18, 2002
- Seminar no. 5 – March 1, 2002

A. Coalition Seminar no. 1

Administrative barriers

The first seminar was dedicated to discussing administrative barriers commonly encountered by businesses in the course of their activities. Coalition members emphasized that Administrative Code is a tool for simplifying administrative procedures and thereby contributing to transforming an informal sector into a formal one. This would be vitally important for the country in general and for the business community in particular. Topics raised during the discussion concerned property rights and transaction costs. Especially importance was attributed to the Law on State Control over Entrepreneurial Activity entered into force in June 2001. Legislative gaps and the presence of more than forty state control bodies is a considerable barrier for developing formal economy. The Coalition members asked the Working Group to pay a special attention to implementation and enforcement of this Law and to gather resources for conducting its monitoring.

The Working Group informed the Coalition members that in January 2002 it would present results of a profound study carried out by Foreign Investment Advisory Service (a joint service of the International Finance Corporation and The World Bank) aimed at revealing administrative barriers to investment in Georgia. We will use this study as a basis for our decision-making in working on the issues of administrative barriers.

B. Coalition Seminar no. 2

a) Poverty Reduction and Economic Growth Program

Together with the Coalition, the Working Group analyzed achievements relating to involvement in upgrading the Poverty Reduction and Economic Growth Program (PREGP). Coalition members have reaffirmed their high interest towards their participation in the development of the Poverty Reduction Program. As mentioned in previous report, the Coalition members believe that this Program may significantly impact the business environment since the Program's real goal is to improve economic development, and beneath the title of poverty reduction, it is government's fifteen-year plan of economic growth and social development. Thus, the Coalition adheres to the strategy of increasing business community's participation in the completion of this document. The Coalition requested the Working Group to take measures for developing mechanisms of civic engagement in the PREGP elaboration process.

As mentioned in our third report, PSI and ABED have jointly developed a project on mechanism of participation of the civil society, including business community and professional associations in adoption of the final version of the Program. Within the framework of the project, ABED and Coalition have conducted two pilot debates on November 7 and 13, 2001. These debates proved to be a positive step towards the ultimate goal of ensuring a higher degree of civil society participation in the PREGP elaboration. As a continuation of the pilot debates, the Coalition has developed a three-phase action plan which has been accepted by Government and supported by donor organizations with the British Department For International Development (DFID) acting as a major sponsor.

The first phase will last until end of May and includes a series of public debates. Over the current reporting period, a total of seven debates were held. At the debates participants are involved in constructing a problem tree of the Program based on Discussion Materials prepared by the Government. In this process, efforts are undertaken to add missing problems or to remove unnecessary ones, to place the problems in a correct and logical way, and to define a hierarchy of problems. The problem matrix will be used to reedit the Program making it actually enforceable, better understandable and manageable.

The second phase of the Coalition's project envisions establishment of an Editorial Board with participation of governmental and non-governmental organizations, including Coalition members at the end of May. The task of the Editorial Board will be to prepare a final version of Poverty Reduction Program by October 2002.

The third phase will start in June and end in August. At this phase, experts workshops will be held, purpose of which is to build logframes for each particular section of the Program.

In the beginning of the participatory process, the Coalition members felt relatively skeptic about Government's commitment to actually take account of outcomes of participatory debates. However, recent developments have proved that the Government (PREGP Preparation Commission headed by President Shevardnadze and its Secretariat) became very interested, open and acceptive of most ideas generated during the debates. This is documented by the fact that some of the outcomes of the aforementioned debates have already been reflected in the Government-prepared drafts. For

instance, inspired by the debates process, the Government has changed its approach to the Program that recently has found a reflection in changing the title of the document with “Economic Development and Poverty Reduction Program”.

The debates are now being recorded. At the end of series of debates a compact disk reflecting the entire process of debates will be prepared and sent to CIPE.

b) Case Monitoring

As reported earlier, the Working Group sent 40 requests of information to various administrative bodies. Of these, we did not receive a response from the Ministry of Finance. PSI decided to take the case to the court. At the first hearing no representative appeared before the Court on behalf of the Ministry. Surprisingly, the Ministry of Finance, concerned about the administrative action brought against it, forwarded the requested information to us at the second hearing excusing that they could not fit in time due to “technical problems”. Therefore, we decided to terminate litigation, since our goal was not to bring the Ministry to the court, but to make the it understand in general that the Code is actually enforceable and request for public information shall be satisfied.

As part of sending requests of information to a number of administrative bodies, the Working Group addressed the Power Regulation Commission as well. Working group was interested in obtaining the conclusion of a private audit company, which checked financial documentation of the Power Regulation Commission on the basis of a contract between it and Commission. The conclusion concerned, *inter alia*, information on investments on the basis of which the Commission decided to increase power tariff. The Commission responded to our request stating the “confidentiality provision” of the contract drawn up between it and the audit company prohibited release of information contained in the auditory conclusion. Based on this refusal, we took the case to the court.

C. Coalition Seminar no. 3

PSI and Coalition strongly adhere to the principle of community mobilization to achieve rule of law goals in the transition period. To this end, the Coalition members came together to discuss possible ways of creating an environment that would increase the degree of social mobilization.

To say in more detail, the Working Group conducted a study of social capital as one of the decisive factors determining various social phenomena. The Group examined the concept of social capital as the glue that holds groups and societies together. In particular, it concentrated on two aspects thereof: a) cross-cutting ties among social groups and b) interaction between informal and formal institutions. These aspects were analyzed in the light of relationship between the State and the society. As a result of analysis, the working group identified four different types of relationship between the state and the society:

- 1) Well-being (well-functioning government complemented by abundant cross-cutting ties);
- 2) Exclusion (well functioning government, low cross-cutting ties);
- 3) Conflict (poorly functioning state and low cross-cutting ties); and

4) Coping (abundant crosscutting ties substituting for poorly functioning government).

At the seminar, the Working Group offered the participants to express their opinion on which of the four types the Georgian society best fits in. It was decided that Georgia can be considered as a coping society in a poorly functioning state with abundance of cross-cutting ties. The coping feature is caused by the fact that abundant cross-cutting ties among and within various social groups serve as a substitution of what they cannot get from the poorly functioning state, including provision with social services. Thus, they manage to reduce negative outcomes caused by ineffective government. Certainly, this entire structure is informal with all of its entailing negative results.

This vision helped us elaborate a new strategy for further development of advocacy activities. The new strategy does not imply endless expansion of the ABED Coalition. It is rather committed to facilitate creation of various coalitions under different leaderships, to develop good networking among them and to promote the strengthening of crosscutting ties. This will enable such a network of coalition to effectively implement a common advocacy policy.

As part of such approach, ABED and PSI have contributed to creation of two more business-participated coalitions entitled Civil Dialogue and Coalition for the Protection of Small and Medium Businesses' Interests.

D. Coalition Seminar no. 4

As mentioned in our previous report (*III.C. Business Accreditation Experiment*), the Coalition developed a plan for the creation of a pilot accreditation institute at Georgia's National Center of Intellectual Property. Purpose of the accreditation institute is to ensure participation of interested persons in the decision-making process. Under the term "accreditation" we imply that a number of organizations wishing to be involved in scheduled discussion by a relevant administrative body of a draft or conclusion that may have impact over their activities are put on a special list at their request. A considerable advantage of an "accredited organization" is that it receives in good time information from the administrative body about what decisions are being prepared.

Although it is the obligation of administrative bodies under the General Administrative Code to inform organizations that might be possibly affected by their decision about the scheduled discussion of a particular topic and to enable them to participate in consideration. The Code does not prescribe a clear mechanism of how this participation should be ensured; at the same time, both public officials and the civil society lack the culture of cooperative interaction between each other. The institute of accreditation will not only make a dialogue with administrative bodies more intensive and effective, but also strengthen the role of accredited civil society organizations.

As a result of intensive efforts, Georgia's National Center of Intellectual Property issued an order granting accreditation to requesting organizations and individuals (please see attached list for full membership). Some of the accredited organizations took part in the seminar and shared their views and expectations with the Coalition.

E. Coalition Seminar no. 5

Initially we intended to hold a plenary conference at which results and achievements of the entire project will be discussed among the Coalition members, academic circles, appropriate public officials, representatives of media and other members of civil society.

However, due to a wide variety of expected audience, we decided to divide the upcoming conference into two parts. The first part, which took the form of the fifth Coalition seminar, was dedicated to outcomes of the project that are of particular interest to the business community.

The second part named as conference and scheduled to be held on March 28, 2002, will be devoted to discussing legislative, theoretical and enforcement problems of the Administration Code among the professional audience. The conference will be jointly organized by PSI, Georgian Young Lawyers' Association, and United Nations Association of Georgia. This will be a forum especially for professional audience such as judges, lawyers, lawmakers, non-governmental organizations working on rule-of-law projects, community organizations, and mass media who have a particular interest in these issues. At the seminar we selected Coalition members who will participate in the conference.

II. Public Relations Campaign

During the current reporting period the PSI Working Group and Coalition has been continuing to be actively involved in public relations campaign aimed at increasing the population's awareness in their rights and their enforcement mechanisms under the General Administrative Code. As mentioned in our third report, PSI continued its activities envisioned by the project. Besides, the Working Group activities in this regard included as follows:

- **TV Show.** As we mentioned in the third report, PSI worked with "Studio Re", airing public affairs program on the Georgian State Television, to produce an hour long TV show on issues surrounding the General Administrative Code and its implementation mechanisms. However, since January 2002 Studio Re's program on the 2nd Channel of the State Television was closed due to commercial reorganization.

As regards private TV companies, we did not address them for the following two reasons: first, that broadcasting time is much more expensive as compared to the state television and secondly, because they do not cover most regions of the country.

The only TV talk-show program on the 1st Channel of the Georgian State Television addressing economic issues now is "EcoDigest". Unfortunately, now cost for placing an order of airing a show in this program has climbed up to 3,500 US dollars. We tried to negotiate with relevant persons. On its part, "EcoDigest" expressed its interest in cooperating with us. Presently we are proceeding with negotiations on airing a series of public debates to be held in various regions of Georgia around administrative barriers to development of formal business. The debates will be broadcast by both the Georgian Central State Television and local TV companies.

As a positive achievement at this stage, "EcoDigest", proceeding from future plans of cooperation with us, has agreed to air materials of our conference to be held in March at a

reduced cost. At the same time, the Working Group is making efforts to raise appropriate funds via holding dialogues with a number of institutions.

- **Radio Program.** Over the last years, radio has become very popular among the population, especially in regions where there are scarce communication facilities mainly due to lack of electricity. The Coalition decided to widely use this feature to carry out its advocacy activities. A state radio channel entitled “Georgian Radio” is one of the popular radio stations both in Tbilisi and regions since it can be received by not only wireless but also wired receivers (the latter are convenient since their operation does not require electricity). The Georgian Radio airs a public affairs program entitled “Rush Hour” three times a day. In this program a radio show can be placed free of charge. The Working Group negotiated with the studio and aired a program with participation of three of our project participants on issues related to the General Administrative Code. Interviews of Coalition members expressing their views and experience related to the Coalition’s efforts in advocating the Code and monitoring were also included in the program. The Working Group is now planning to negotiate with the “Rush Hour” radio program on airing a series of radio shows surrounding the Administrative Code. To this end, the Group is making efforts to raise funds needed for preparing appropriate materials.

III. Monitoring of the Budget Process

We have already stated in our previous report that Coalition members feel special interest toward the process of preparation and execution of various levels of the Georgian state budget. This process, which is of particular importance to the business community, is one of the least transparent activities of the Government. Its results are often extremely hurtful to the business environment. For this reason, the Coalition asked the Working Group to develop a strategy which will improve the monitoring of the budget process and increase accountability of Government by using tools under the General Administrative Code.

The Working Group discussed availability of resources and expertise. Apart from financial resources question, it is of paramount importance to carry out transfer of budget monitoring know-how to organizations that will serve as “watchdogs” for all levels of the Government budgets. The issue of conducting capacity building has been raised twice. First, at the Budapest Conference of NIS and Central European Countries on Poverty Reduction Strategy (held with support of World Bank in November 2001) by Mr. Devi Khechinashvili, Chairman of the PSI Board and Mr. Leonid Komarover, Senior Advisor of the President of Kyrgyz Republic. Secondly, Mr. Devi Khechinashvili put forward this issue at the IMF-World Bank-supported International Conference on National Poverty Reduction Strategies held in Washington, D.C., January 2002. At both of these conferences, the idea of training the so-called “watchdogs” has been upheld and is currently under consideration.