

# THE SIGNIFICANCE OF PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR AND ONGOING CHALLENGES

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# INTRODUCTION

The risk of abuse of powers by representatives of security agencies, and thus the risk of serious human rights violations, rises when there is no adequate oversight of these agencies.<sup>1</sup>

For years, civil organisations have been discussing the broad powers of security agencies of Georgia, extensive confidentiality and obscure nature of their activities and the lack of democratic oversight.<sup>2</sup>

The main goal of the activities of the country's security agencies should be protection of the state's sovereignty and an individual's personal security. A broad mandate of security agencies and in some cases an inefficient use of this mandate demonstrates that financial and administrative resources of the state are spent irrationally and security of a person is not a priority for these agencies. In such circumstance, adequate oversight of the security sector assumes particular significance.

Parliament is the most powerful oversight body in charge of security agencies, especially in parliamentary republics. In general, the security sector refers to all structures, institutions and personnel responsible for security provision, management and oversight at the national and local levels.<sup>3</sup> For the purposes of the present report, the security sector implies the State Security Service of Georgia, the Ministry of Internal Affairs of Georgia, the Ministry of Defence of Georgia, and the Operational Technical Agency under the State Security Service.

The present document is an interim observation report on the implementation of parliamentary oversight carried out with regard to the State Security Service of Georgia, the Ministry of Internal Affairs of Georgia and the Ministry of Defence of Georgia.

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<sup>1</sup> Parliamentary Assembly of the Council of Europe, *Control of Internal Security Services in Council of Europe Member States, Recommendation 1402* (1999), para. 5, available in English at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16689&lang=en>.

<sup>2</sup> Democracy Research Institute, 2020, *The State Security Service – Duplication of Competences and Parallel Investigative Systems in Georgia*, available at <https://www.democracyresearch.org/geo/367/>.

<sup>3</sup> DCAF and NATO Parliamentary Assembly, *Parliamentary Access to Classified Information*, November 2018, Geneva, available in English at <https://bit.ly/3Gy57BZ>.

The document analyses information that is publicly available and proactively published as well public information requested by the organisation from relevant agencies. The report also discusses the regulatory framework of parliamentary oversight, the practical implementation of relevant provisions and the outcomes of interviews with members of the Parliament of Georgia. The report also assesses the 2022 activity report of the State Security Service and the implementation of the 12 priorities of the European Union, the legislative amendments adopted to enhance parliamentary oversight and their practical implementation.

The observation shows that parliamentary oversight of the security sector is rather weak. It is caused by several factors such as shortcomings of the legislation governing oversight mechanisms, lack of political will to ensure responsibility of the accountable agency towards the oversight body on the one hand and effective exercise of its mandate by this body on the other hand. Furthermore, the fact that the parliamentary opposition, both in accordance with the Rules of Parliament and in practice, has a limited possibility to carry out parliamentary oversight is another problem.



## METHODOLOGY

The report discusses parliamentary oversight mechanisms for the security sector of Georgia. The report addresses the frequency and effectiveness of these mechanisms. The document also assesses the degree of accountability of security agencies. For the purposes of the report, the security sector comprises the State Security Service of Georgia, the Operational Technical Agency under the State Security Service, the Ministry of Defence of Georgia and the Ministry of Internal Affairs of Georgia. The report provides an interim assessment and covers the period from 1 January 2023 to 30 June 2023. However, due to the importance of the events that occurred before 1 January 2023, the document also discusses the legislative amendments made to improve parliamentary oversight within the framework of the implementation of the recommendations of the European Commission and practical enforcement of these changes.

The first chapter of the report discusses the general mechanisms of parliamentary oversight for the security sector. The second chapter gives an overview of the amendments made to the Rules of Parliament of Georgia and other legislative acts in November 2022 and analyses the extent to which parliamentary oversight has improved. While the amendments were not specifically aimed at the security sector, they affected it to some extent. Therefore, the report focuses on this relevant part of the said amendments. The third chapter of the report concerns the mechanisms of parliamentary oversight for the security sector – the legal framework governing the activities of the Trust Group and the pertaining practical shortcomings as well as the legislative initiative drafted by the Democracy Research Institute aimed at improving parliamentary oversight of the security sector. This chapter is divided into sub-chapters analysing questions and answers received by a member of parliament, mandatory attendance of an official at committee sessions, summoning of an official at plenary sessions, interpellation and setting up a temporary investigative commission(s) in the X Parliament of Georgia. The fourth chapter gives a critical analysis of the annual report of the State Security Service. At the end of the document, the key findings made during the observation are summarised.

The study is based on the data obtained by the Democracy Research Institute through requesting public information, the study of regulatory framework governing oversight/control of the State Security Service, the Operational and Technical Agency, the Ministry of Defence and the Ministry of Internal Affairs, and analysis of the information posted on the website of state agencies.

Considering the goals and tasks of the project, the following methodology was used in the development of the report:

**PROCESSING AND ANALYSING DATA** – at the initial stage of the research, we made the list of normative acts to study and processed the data obtained through requesting public information.

**DESK RESEARCH** – we gathered and analysed public data published by respective administrative bodies and used it in the research process. Furthermore, we used reports of other public organisations and international organisations in the report.

**INTERVIEWS** - We conducted interviews with representatives of parliamentary factions/political groups on challenges linked to the implementation of parliamentary oversight of the security sector.

# MECHANISMS PARLIAMENTARY OVERSIGHT

# 1

The Rules of Parliament envisage a number of oversight mechanisms for the security sector, *inter alia*, submitting a question and interpellation, mandatory attendance of an accountable official at a committee session, presenting an annual report of the State Security Service to a parliamentary session, and control carried out by the Defence and Security Committee, the Trust Group and other relevant specialised committees. The observation shows that the most frequently used mechanism of parliamentary oversight of the security sector is a question of a member of parliament. A member of parliament is authorised to address representatives of any accountable body, *inter alia*, the Ministry of Internal Affairs, the Ministry of Defence and the State Security Service. Each body is under a duty to give a comprehensive answer within 10 days. This term may be prolonged for 10 days with the consent of the author of the question.

Under the Rules of Parliament of Georgia, the Defence and Security Committee of the Parliament of Georgia is mainly in charge of oversight of security agencies. Such model exists in many countries, for instance in Germany, Poland and Italy.<sup>4</sup> Because of the rules how parliamentary committees are formed, presently the majority of members of the Defence and Security Committee are representatives of the ruling party.

Under the Statute of the Defence and Security Committee of the Parliament of Georgia, the committee:

- Develops, discusses and prepares for plenary sessions of the parliament drafts of laws, parliamentary resolutions and other decisions;
- Participates in deliberations about and elaboration of draft laws submitted to the parliament;
- Regulates legislative framework pertaining to the defence and security of the country, classification of information as a state secret, its protection and oversees the implementation of laws;

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<sup>4</sup> Commissioner for Human Rights of the Council of Europe, 2015, *Democratic and Effective Oversight of National Security Services*, para. 42, available in English at <https://rm.coe.int/16806daadb>.

- Elaborates legislative initiatives, recommendations and proposals regarding institutional reforms of the security sector;
- Deliberates about the ratification of international instruments pertaining to the security sector, accession to them, their denunciation and abolition;
- Oversees activities of state bodies accountable to the parliament and, if needs be, submitting a corresponding conclusion to the Parliament of Georgia;
- Hears a report of the Head of the State Security Service about implemented activities, elaborates corresponding conclusions regarding the report and drafts a resolution of the Parliament of Georgia that may reflect certain recommendations;
- In cases envisaged by legislation, elaborates conclusions about the pre-term dismissal of the Head of the State Security Service;
- Examines applications and complaints lodged with the committee; and
- Discharges other powers established by law.

The Trust Group is set-up within the Defence and Security Committee of the parliament. Under the legislation in force, the Trust Group has the most extensive mandate in terms of oversight of security agencies. The Trust Group has the right to monitor agencies, request and receive, *inter alia*, classified information.

Another significant mechanism is interpellation. Under the Rules of Parliament, “consisting of no fewer than seven members of parliament, a party is authorised to submit a question, in the form of interpellation, to the government, a body accountable to the parliament and any member of the government.” It is not sufficient to submit a written response; an addressee must answer questions in person. The amendments made to the Rules of Parliament in 2022 allowed more frequent use of this mechanism.

The Rules of Parliament incorporate other mechanisms of parliamentary oversight such as summoning an accountable official to committee and plenary sessions. Members of parliament have an opportunity to submit questions to an accountable official appeared before the oversight body and receive answers. However, there are a number of legislative and practical challenges in this regard that are discussed in the report.

A temporary investigative commission is one of the most important mechanisms of parliamentary oversight. Through temporary investigative commissions, members of parliament can investigate, *inter alia*, alleged breaches of Georgian legislation and criminal acts allegedly committed by state bodies/officials. Despite the positive changes carried out in 2018, which made it possible to set up investigative commissions with the support of 50 members of parliament, many practical challenges remain in place.



# RECOMMENDATION OF THE EUROPEAN COMMISSION – STRENGTHENING PARLIAMENTARY OVERSIGHT OF ACCOUNTABLE AGENCIES

## 2

Amendments made to the Rules of Parliament of Georgia in 2018 enhanced parliamentary oversight of the security sector. Nevertheless, due to a number of challenges in terms of democratic oversight, the recommendation to strengthen this field was included among the 12 priorities of the European Commission. Neighbourhood and Enlargement Commissioner Olivér Várhelyi when presenting an interim report in 2023 noted that despite certain progress, Georgia still needed “to improve parliamentary oversight.”<sup>5</sup>

Within the framework of the implementation of 12 recommendations of the European Commission, a working group set-up under the Procedural Issues and Rules Committee worked on strengthening parliamentary oversight. Within the framework of the working group, the Democracy Research Institute presented to the committee written opinions to contribute to enhancing parliamentary oversight. The recommendations concerned the following issues: questions of a member of parliament, general rules on debates, interpellation, attendance of an official at plenary sessions, Trust Group, public report on the activities of the State Security Service, parliamentary committees, breaches of the Rules of Parliament by other officials and sanctions.

When developing recommendations, the Democracy Research Institute, based on its experience, focused on enhancing parliamentary oversight of the security sector and presented the recommendations to the working group set-up under the Defence and Security Committee, which, based on the European

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<sup>5</sup> European Commission, 22 June 2023, *Press remarks by Neighbourhood and Enlargement Commissioner Olivér Várhelyi, following the informal General Affairs Council*, available in English at [https://ec.europa.eu/commission/presscorner/detail/en/speech\\_23\\_3458](https://ec.europa.eu/commission/presscorner/detail/en/speech_23_3458).

Commission's priority no. 6, was entrusted to work on strengthening oversight of law-enforcement agencies. In conclusion, several recommendations of the Democracy Research Institute were reflected in the Rules of Parliament. The amendments made by the parliament reduced the time allocated for answering a question submitted by a member of parliament from 15 to 10 working days, and introduced a duty of the Head of the State Security Service to present the agency's annual report to the parliament in person. Under the version of the Rules of Parliament in force before the said amendments, a Deputy Head of the State Security Service also had the authority to present the report. The Procedural Issues and Rules Committee made other changes to the Rules of Parliament. For instance, the committee is now obliged to see to the mandatory attendance of an accountable official at committee sessions and the hearing of the official at the committee session, periodically analyse the issues related to questions, prepare and publish reports. Other amendments of the Rules of Parliament concerned an increase in the number of interpellations, and thematic inquiry.

## **2.1. LEGISLATIVE SHORTCOMINGS OF THE SECURITY SECTOR OVERSIGHT**

Despite positive changes, the Parliament of Georgia did not fully use the opportunity to address the legislative gaps precluding the implementation of parliamentary oversight. Therefore, certain serious challenges remain in the Rules of Parliament that need to be addressed. For instance, the working group set-up to improve parliamentary oversight did not address an important mechanism of parliamentary oversight such as summoning an official by a parliamentary group to its sessions.

Under the current version of the Rules of Parliament in force until 2019, a member of the Government of Georgia, as well as all the officials elected by the Parliament, were under a duty to attend parliamentary factions' sessions and submit their activity report. The amendments made to the Rules of Parliament in 2018 deprived the parliamentary factions of this important tool of parliamentary oversight.

Under Article 40.3 of the Rules of Parliament, the majority of the list of committee members is required to summon to the committee sessions the Head of the State Security Service, the Prosecutor General of Georgia and the Prime Minister of Georgia. In order to summon other accountable officials, the majority of those present at the committee session or a request of the parliamentary faction/political group is sufficient. We believe that there should not be an exceptional wording for any official, especially for such officials, towards whose activities there is an increased interest. It is important for the parliamentary factions (including the opposition factions) not to have additional obstacles created by the Rules of

Parliament when it comes to summoning to the committee sessions the Prime Minister, the General Prosecutor or the Head of the State Security Service.

Another important problem, which remained intact in the Rules of Parliament, concerns the response to incidents of breach of the rules by an official. In this regard, the Rules of Parliament still do not provide any effective mechanism for response. Within the framework of the implementation of the 12 priorities of the European Commission, the Procedural Issues and Rules Committee was tasked to see mandatory attendance of officials at committee sessions and hearing the official at the committee session, answering questions of a member of parliament, “appropriate response”, preparing relevant reports and submitting them to the bureau. These changes have been in effect for several months now, however, the only tangible outcome so far are the reports prepared by the Procedural Issues and Rules Committee. Since the publication of the reports has not produced any results so far, it is unlikely that the preparation and publication of the reports will eliminate or reduce future incidents of breaches of the Rules of Parliament by officials.

There are some flaws in the process of using the interpellation mechanism as well. In particular, an addressee is obliged to answer questions at the plenary session in person and to submit it in writing as well. For the authors of the question to have an opportunity to prepare for the debates held within the framework of interpellation, it would have been better that the addressee of the question had the obligation to send the answer to the question submitted through interpellation no later than five days before the session. Prior submission of a written answer would have helped to conduct the interpellation procedure in a more organised and meaningful manner.

Another important passage of the Rules of Parliament that requires clarification, concerns the adoption of a resolution by the Parliament of Georgia after hearing a representative of the accountable body or assessing its activities. Existing practice has shown that these resolutions are usually formal, very short and uninformative. It is necessary for the resolution to include the specific circumstances due to which the agency’s activity/presented report was assessed positively or negatively. Moreover, it should indicate specific recommendations of the parliament to the agency/official concerned.

The only body exercising oversight of secret procurement is the Trust Group. In addition to the problems related to the staffing of the Trust Group, its mandate and performance, the Rules of Parliament of Georgia oblige the relevant agencies to submit to the Trust Group detailed information about the secret procurement, when the estimated value of the goods or services to be purchased exceeds GEL 2,000,000 (two million). This wording of the Rules of Parliament allows the accountable body to bypass oversight and make single purchase of goods/services not exceeding the threshold of GEL 2,000,000.

Addressing the above shortcomings, as well as reforming the Trust Group (discussed in a separate chapter of the report), will contribute to a more flexible use of oversight mechanisms and will give members of parliament more leverage for constructive criticism and oversight of the activities of accountable bodies.

## 2.2. PRACTICAL IMPLEMENTATION OF THE AMENDMENTS

The weakness of parliamentary oversight is primarily caused by the lack of political will – members of parliament do not or cannot use<sup>6</sup> a number of oversight mechanisms. Therefore, it should be assessed as to how effectively the amendments made to the Rules of Parliament in 2022 are being implemented.

As mentioned above, within the framework of the implementation of the 12 priorities of the European Commission, the Parliament of Georgia took into account the recommendation made by the Democracy Research Institute and amended Article 171.1 of the Rules of Parliament of Georgia and, accordingly the Law of Georgia on the State Security Service of Georgia as well. The amendment made it the responsibility of the Head of the State Security Service to present a report on the service's activities to the Parliament of Georgia in person. The previous wording of Article 171 of the rules vested this right to the deputy head of the service as well.

Despite the said legislative amendments, the 2022 activity report of the State Security Service was presented to the Parliament on 7 July 2023 again by the deputy head of the service. The Rules of Parliament, however, reads as follows: “***The Head of the State Security Service of Georgia, once a year, no later than 15 April presents to the parliament a public report on the activities carried out by the service in the previous year***”. Submission of the report by the Deputy Head of the State Security Service amounts to a breach of the Rules of Parliament of Georgia.

Another amendment aimed at improving parliamentary oversight, concerned follow-up to questions of members of parliament. Under the amendment made to the Rules of Parliament in 2022, “*the Procedural Issues and Rules Committee of the Parliament shall examine follow-up to questions of a member of parliament no later than 15 days after the end of February of the calendar year and every subsequent third month (May, August, and November). The Procedural Issues and Rules Committee of the Parliament shall submit information on follow-up to a question of a member of parliament to the Bureau of the Parliament. The Bureau of the Parliament is authorised to put the said matter on the agenda of the plenary session of*

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<sup>6</sup> Especially, representatives of the parliamentary opposition.

*the parliament. The Procedural Issues and Rules Committee of the Parliament shall ensure the publication of the said information on the website of the parliament.”<sup>7</sup>*

The Democracy Research Institute requested public information from the Parliament of Georgia regarding assessment made by the Procedural Issues and Rules Committee on the question submitted by a member of parliament to the accountable official and the answers given by the latter at the committee session.

Since the entry into force of the legislative amendments (November 2022), the Procedural Issues and Rules Committee has prepared three reports - in December 2022, April 2023 and June 2023. These reports maintain that members of parliament actively use one of the mechanisms of parliamentary oversight – questions of a member of parliament.

The reports developed by the Procedural Issues and Rules Committee impart information about the number of unanswered questions as well as statistical information about the breach of the deadline for answering questions of a member of parliament and answers given by unauthorised persons. According to the reports, the Procedural Issues and Rules Committee of the Parliament of Georgia, in accordance with Article 148.8 of the Rules of Parliament of Georgia, submits the said information to the Bureau of the Parliament of Georgia, continues to study the data on the follow-up to the question of a member of parliament and monitors continuously the follow-up to the question of a member of parliament as per requirements of the Rules of Parliament.

*Under Article 148.4 of the Rules of Parliament, “a body or official to which/whom a question is addressed is obliged to give a **comprehensive written answer** within 10 days. This term may be prolonged for 10 days with the consent of the author of the question. The answer to the question is signed only by the head of the relevant agency referred to in the first paragraph of this article or the relevant member of the Government of Georgia.”*

Therefore, the committee report should cover all the issues referred to in paragraph 8. For years, the Democracy Research Institute has been analysing questions and answers received by members of parliament. Although there seems to be an increase in the number of questions, the substance of the questions and the answers submitted remain problematic. Unfortunately, the reports of the Procedural Issues and Rules Committee mainly supply general statistical information. The main challenges whether

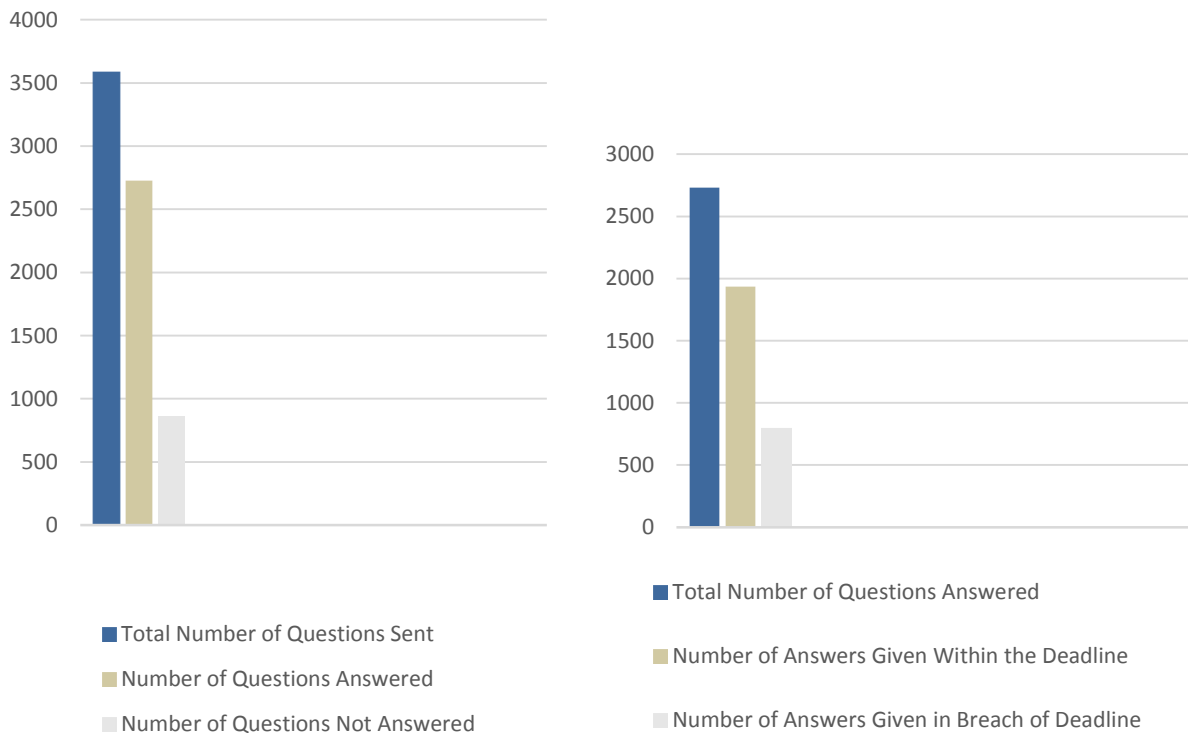
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<sup>7</sup> The Rules of Parliament, Article 148.8.

the given answer corresponds to the question submitted by a member of parliament or whether it was refused to give an answer correctly have not been studied or analysed.

For a general impression, below is given a summary of the statistical information presented in the three reports of the committee:<sup>8</sup>

### November 2022 - May 2023



<sup>8</sup> The report covers information on the questions sent to all accountable agencies (not only the security agencies) and the answers received.

## OVERVIEW OF VARIOUS OVERSIGHT MECHANISMS

# 3

### 3.1. SHORTCOMINGS AND PRACTICAL PROBLEMS OF THE LEGISLATION GOVERNING ACTIVITIES OF THE TRUST GROUP

The activities of security agencies are characterised by a high degree of secrecy. The Trust Group set-up under the Defence and Security Committee of the Parliament of Georgia has the most extensive authority to carry out oversight of security agencies. The legal framework governing activities of the Trust Group is flawed and it causes practical problems.

The Democracy Research Institute, requested public information from the Parliament of Georgia regarding the activities of the Trust Group. According to the information received, the Trust Group held eight sessions from 1 January 2023 to 30 June 2023. According to the correspondence received from the parliament, representatives of the Ministry of Defence participated in two sessions of the Trust Group. The Minister of Defence and his deputies attended a session held on 27 March 2023 and a Deputy Minister of Defence attended another session held on 19 June 2023. The Head of the State Security Service and his deputy participated in one session of the Trust Group that was held on 16 April 2023. As for the Ministry of Internal Affairs, the deputy ministers attended one session of the Trust Group held during the reporting period on 12 April 2023.<sup>9</sup>

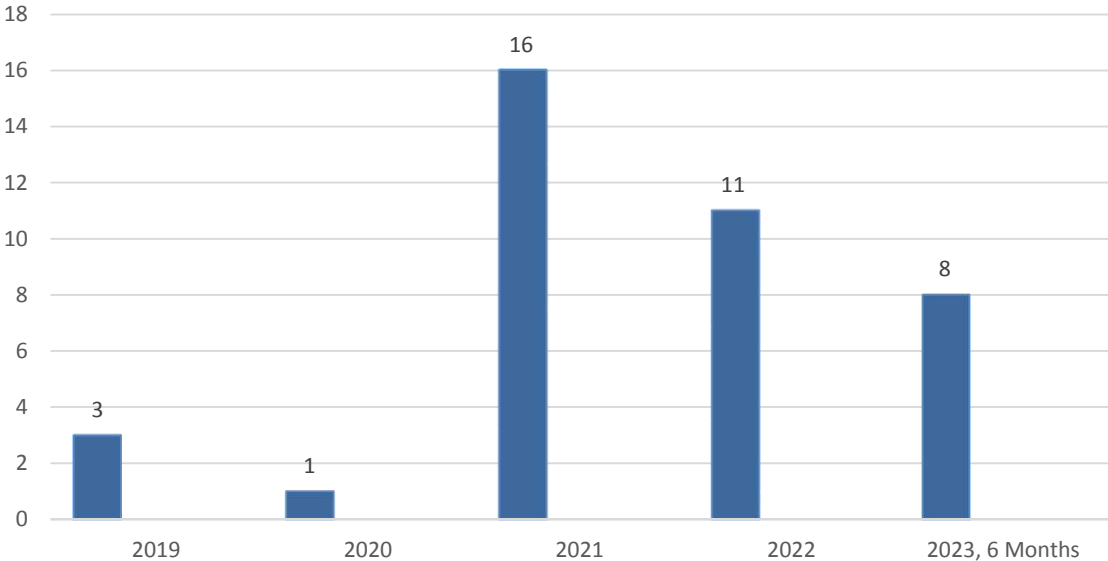
Due to the highly secretive nature of the activities of the Trust Group, it is not known what issues were discussed at the meetings. The Democracy Research Institute requested the following information from

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<sup>9</sup> Letter no. 5592/2-7/23 of the Office of the Parliament of Georgia, dated 18-07-2023.

the Parliament of Georgia: dates of Trust Group meetings, copies of agendas and list of participants; dates of meetings when reports were presented to the Trust Group by accountable officials and list of participants; information submitted by relevant agencies to the Defence and Security Committee about the implemented and ongoing non-secret procurement; how many times did representatives of the security agencies attend meetings of the Trust Group; number of inspection visits by members of the Trust Group to the Operational and Technical Agency and other accountable agencies.<sup>10</sup> The Parliament of Georgia provided us with the information **only** about the number of meetings held by the Trust Group, their dates and the persons present.<sup>11</sup>

### Number of Sessions Held By the Trust Group



Articles 157, 158 and 159 of the Rules of Parliament of Georgia governs composition and activities of the Trust Group. While the new edition of the 2018 Rules of Parliament have enhanced the mandate of the Trust Group, observation shows that parliamentary oversight of the security agencies is punctuated with shortcomings. The broad mandate given to the security agencies to dodge accountability, problems

<sup>10</sup> Letter no. 20230307/33 of the Democracy Research Institute.

<sup>11</sup> Letter no. 5592/2-7/23 of the Office of the Parliament of Georgia.



related to the composition of the Trust Group, its staffing, and the non-transparency of its activities are among the issues that are not adequately governed by legislation.

Under the Rules of Parliament, a member of the Trust Group is entitled to visit an accountable body. However, the mentioned provision is problematic in two regards: 1. a member of the Trust Group is not allowed to visit the agency independently, without the approval of the chairperson; 2. the prior notification mechanism allows the respective agencies to make “corresponding” preparations. Furthermore, the Rules of Parliament do not elaborate the security clearance of those who have the “right of inspection” and any further details in this regard.

It should be noted that the legislation in force does not oblige the Trust Group to prepare and submit to the parliament a public report about its activities, where the classified information pertaining to state security would be adequately redacted. During the meeting with the Democracy Research Institute, many opposition MPs pointed out the need to have a report of the Trust Group.

It is also worth noting that the Rules of Parliament currently in force, namely its provisions governing the staffing of the Trust Group brought the Parliament of Georgia to a dead end. Considering that there is only one faction in the parliamentary opposition, the Trust Group does not have a fifth member to this day. While the Rules of Parliament currently in force provide for the possibility of nominating a candidate for membership by a political group, the X Parliament of Georgia has not used this possibility.

Under the Rules of Parliament, opposition MPs are not allowed to put important issues pertaining to the competence of the Trust Group on the agenda, which weakens the parliamentary oversight and makes it less effective. Furthermore, while members of the Trust Group have access to state secrets, their mandate to obtain comprehensive information from the relevant agencies is limited.

The observation of the activities of the Trust Group over the last years shows that since the parliamentary majority holds the majority of the Trust Group, the effectiveness of oversight is low. Furthermore, opposition members of parliament have limited possibility to carry out proper oversight.

### **3.1.1. LEGISLATIVE INITIATIVE**

#### **PREPARED BY THE DEMOCRACY RESEARCH INSTITUTE**

Years-long observation of the security sector shows that the parliamentary oversight mechanisms need to be strengthened. The European Commission agrees with this conclusion. Strengthening parliamentary oversight, accountability of law-enforcement agencies and ensuring their oversight are necessary conditions for Georgia to receive the candidate status (priorities nos. 2 and 6 of the European Commission). Since it is impossible to enhance the parliamentary oversight mechanisms for the security sector without changing the composition of the Trust Group and the way it operates, the Democracy Research Institute has developed a draft legislative amendments.

The draft amendments proposed by the Democracy Research Institute to be made to the Rules of Parliament of Georgia increase the number of members of the Trust Group and specifies the procedure for its staffing. In particular, one of the six members of the Trust Group is the Chairperson of the Defence and Security Committee of the parliament, two are members of the faction/factions of the parliamentary majority, and three are members of the faction/factions of the parliamentary opposition.

Under the draft amendments, meetings of the Trust Group shall be held at least once a month. This would contribute to more frequent use of the parliamentary oversight mandate. In past years, the Trust Group has been virtually inactive (for example, in 2019).

The Trust Group would be under a duty to submit a written report on its activities to the Parliament of Georgia at least once a year. Each member of the Trust Group would have the right to submit an alternative report if they disagreed with the Trust Group activity report or its part.

For expanding the Trust Group's mandate, it is necessary for its members to have access to more information than the current version of the Rules of Parliament allows. That is why, under the draft amendments to the Rules of Parliament prepared by the Democracy Research Institute, security agencies are not able to classify information requested by the Trust Group at their own discretion.

The draft amendments provide for an increase in the frequency of inspections of the Operational Technical Agency. The Trust Group would inspect the agency at least twice a year. Furthermore, an individual member of the Trust Group would be allowed to visit relevant agencies on issues within the competence of the Trust Group, without the obligatory consent of the Chairperson of the Trust Group and the prior notification of the agency.

Based on the specific nature of the Trust Group’s activities, it is envisaged by the draft amendments to expand the composition of the office subordinate to the Trust Group, with corresponding administrative and human resources.

## 3.2. ANALYSIS OF QUESTIONS OF MPS AND RECEIVED ANSWERS

Submission of a written question to the accountable body by members of parliament is one of the important mechanisms of oversight of the security sector, which the Parliament of Georgia had not been able to use with particular effectiveness due to various reasons. In part, it was the problem of not being able to use this mechanism effectively that led to amending the Rules of Parliament in 2022, under which the Procedural Issues and Rules Committee of the parliament was instructed to study and provide information to the Parliament Bureau about timely and comprehensive answers to questions by the addressee of the question. The Procedural Issues and Rules Committee has prepared three reports in this regard.<sup>12</sup> The reports do not supply segregated data on the answers to the questions sent to the agencies. According to all three reports, about 20% of the total questions submitted by members of parliament remained unanswered. The Parliament of Georgia did not use the opportunity that arose in the process of implementing the recommendations of the European Commission to develop a more effective mechanism for receiving a timely and comprehensive answer to the question of members of parliament.

No significant changes are observed in 2023 in terms of statistical data of the letters sent directly to the security agencies. According to the public information requested from the Parliament of Georgia by the Democracy Research Institute, while members of parliament addressed 16 written questions to the State Security Service in January 2022 - May 2022, only seven written questions were sent in January 2023 - June 2023. 33 written questions were sent to the Ministry of Internal Affairs of Georgia in January 2022 - May 2022, and 45 questions in January 2023 - June 2023. The number of questions sent to the Ministry of Defence of Georgia increased slightly. In particular, in the period of January 2022 - May 2022, 14 written questions were sent to the agency, and in the reporting period of 2023, 18 written questions. During this period, a Member of Parliament of Georgia sent one question to the Operational Technical Agency.

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<sup>12</sup> Letter no. 5400/2-7/23 of the Office of the Parliament of Georgia, dated 13.07.2023.

### 3.2.1. THE STATE SECURITY SERVICE OF GEORGIA

The number of questions sent to the State Security Service during the reporting period is small. Only representatives of the parliamentary opposition used the written question mechanism. Members of the parliamentary majority did not address any questions to the State Security Service.

The questions submitted to the State Security Service concerned possible threats to Mikheil Saakashvili's health and life, amendments to be made to the Law of Georgia on Licenses and Permits, investigation of the so-called Bakuriani Workshop, allowing/refusing citizens of the Russian Federation entry to Georgia, information about possible secret negotiations between the Georgian government and the Russian government.

During the reporting period, the State Security Service answered all questions. However, depending on the contents of the questions, in some cases the answer given by the agency did not contain the relevant information for the author of the question. For example, on a question of MP Khatuna Samnidze,<sup>13</sup> regarding Bakuriani Workshop, the State Security Service limited itself to a general answer: *“Criminal case-files are confidential and only the persons determined by the law have the right to have access to it. Based on the aforementioned, the service is not allowed to give you access to the criminal case-file.”*<sup>14</sup>

To MP Tamar Kordzaia's question,<sup>15</sup> regarding investigation into the possible crime against the convicted Mikheil Saakashvili (*“How many people have been questioned as part of the investigation? What kind of investigative actions have you taken? What is the stage of the investigation?”*), the State Security Service answered the MP that *“in the interests of the investigation”,* no further information disclosing details of the investigation could be given.<sup>16</sup>

MP Teona Akubardia asked the following questions: *“Why is it that citizens of the Russian Federation opposing Putin’s regime are refused entry to Georgia, but sanctioned political figures of the Russian Federation and their family members (Sergei Lavrov’s daughter) not only enter Georgia freely, their*

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<sup>13</sup> Question no. 2551/3-87/23, submitted by MP Khatuna Samnidze, dated 04.04.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/26897>.

<sup>14</sup> Answer no. SSG 2 23 00089832 of the State Security Service to the question of MP Khatuna Samnidze, dated 18.03.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27101>.

<sup>15</sup> Question no. 4836/3-53/23, submitted by MP Tamar Kordzaia, dated 22.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27901>.

<sup>16</sup> Answer no. SSG 8 23 00127178 of the State Security Service to the question of MP Tamar Kordzaia, dated 05.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27656>.

*security is protected by profound police forces?”. “Also, given the increased flow of visitors from the Russian Federation to Georgia, what are mechanisms at the disposal of the State Security Service to check individuals for security purposes?”<sup>17</sup> The service’s answer was superficial,<sup>18</sup> noting that the Ministry of Internal Affairs of Georgia is authorised to decide about the issues related to crossing the border and the State Security Service, “is involved in the monitoring of the migration flow and carries out appropriate statutory measures within its competence”.*

The State Security Service gave a detailed answer to a question submitted by MP Levan Bezhashvili<sup>19</sup> regarding amendments to be made to the Law of Georgia on Licenses and Permits and the impact of these amendments on the agency, pointing out the statutory grounds on which it based its practice.<sup>20</sup>

Due to the small number of questions sent to the State Security Service and, therefore, a limited range of the topics of the questions, during the reporting period, the State Security Service did not repeat its practice of previous years, where the agency would arbitrarily interpret the Law of Georgia on State Secrets and refuse to answer a number of questions submitted by members of parliament.

### **3.2.2. THE MINISTRY OF DEFENCE OF GEORGIA**

As in the case of the State Security Service, only members of the parliamentary opposition addressed written questions to the Ministry of Defence of Georgia. The absolute majority of questions addressed to the Ministry of Defence belongs to MP Teona Akubardia, who submitted 11 out of 18 questions. Therefore, very few opposition MPs used the questions mechanism to carry out parliamentary oversight of the Ministry of Defence. In the reporting period, the mechanism of oversight with regard to the Ministry of Defence, was mostly manifested in the activity of one MP.

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<sup>17</sup> Question no. 4280/3-2/23, submitted by MP Teona Akubardia, dated 05-06-2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27646>.

<sup>18</sup> Answer no. SSG 7 23 00135501, submitted by the State Security Service to question of MP Teona Akubardia, dated 13.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27850>.

<sup>19</sup> Question no. 5082/3-6/23, submitted by MP Levan Bezhashvili, dated 30.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27942>.

<sup>20</sup> Answer no. SSG 0 23 00158374, submitted by the State Security Service to the question of MP Levan Bezhashvili, dated 12.07.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27991>.

During the reporting period, the Ministry of Defence, unlike the State Security Service, left six questions unanswered. MP Teona Akubardia had submitted all these questions.<sup>21</sup> In these unanswered questions, the MP was asking the Ministry of Defence about statistical information (for instance, *how many military exercises were conducted in the Georgian Defence Forces from 2018 to the present day; how many contracted military personnel violated the contract terms from 2018 to the present day; what is the amount of the fine for violating the contract? How many were fined? How many cases has the ministry brought to a court to seek fines for breaches of contract? How many cases were won by the ministry and by the personnel?*). Furthermore, the questions concerned the documentation developed by the ministry: the action plan of the Defence Strategic Review and the procedure for issuing bonuses in the agency. Even if any of the six questions left unanswered fell within the category of state secrets, this should not have been a pretext for the Ministry of Defence to refuse answering these questions, since MP Teona Akubardia has official access to state secrets.

The opposition MPs were also interested in salaries of military personnel,<sup>22</sup> the participation of the Georgian Defence Forces in international exercises,<sup>23</sup> and the Ministry's position regarding amendments to be made to the Law of Georgia on Licenses and Permits.<sup>24</sup>

The fact that one member of parliament submits most of the questions to the Ministry of Defence of Georgia shows the lack of interest on the part of members of parliament. Moreover, the reason may also be the lack of relevant competence in the field of defence. However, it is obvious that in terms of oversight of the Ministry of Defence, the questions mechanism largely depends on the individual interest and efforts of several opposition MPs.

### **3.2.3. THE MINISTRY OF INTERNAL AFFAIRS OF GEORGIA**

The Ministry of Internal Affairs was the only agency in the security sector to which members of the parliamentary majority sent questions (MPs Zaza Lominadze and Nino Tsilosani). By the period of

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<sup>21</sup> Questions submitted by MP Teona Akubardia to the Ministry of Defence of Georgia are available at <https://parliament.ge/supervision/deputy-question>.

<sup>22</sup> Question no. 745/3-62/23, submitted by MP Paata Manjgaladze, dated 25.01.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/26023>.

<sup>23</sup> Question no. 3249/3-2/23, submitted by MP Teona Akubardia, dated 03.05.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27208>.

<sup>24</sup> Question no. 4537/3-53/23, submitted by MP Tamar Kordzaia, dated 13.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27819>.

development of the report, Zaza Lominadze's question was not posted on the official website of the Parliament of Georgia. Georgian Dream MP Nino Tsilosani<sup>25</sup> was interested in the statistics on administrative violations of selling pyrotechnics and injures because of their use. The Ministry of Internal Affairs answered the questions submitted by MP Nino Tsilosani and all other MPs.

The questions sent to the Ministry of Internal Affairs often concerned various statistical data. However, the most frequent questions were about visitors from Russia, including members of Sergey Lavrov's family<sup>26</sup> and people who were refused entry to Georgia.<sup>27</sup>

Regarding Lavrov's family members, the agency cited the protection of personal data as the reason,<sup>28</sup> and as regards the refusal of entry (mostly Russian dissidents), the correspondence was limited to a general and abstract legal clarifications,<sup>29</sup> without indicating the grounds for not allowing specific persons (who were named by the MP in the question) to cross the Georgian border.

While the number of questions submitted to the Ministry of Internal Affairs is small, and the information requested by members of parliament did not require particular effort from the agency, it can be seen from the above two examples that the Ministry of Internal Affairs attempted to limit itself to only a formulaic response and did not provide any actual information.

Stemming from the broad mandate of the Ministry of Internal Affairs, the questions submitted to the agency are relatively diverse and, a relatively large circle of members of parliament showed an interest in its activities compared to the Ministry of Defence. In some cases, the formulaic answers given to the questions made it clear that the respective officials of the agency do not feel accountable to the Parliament of Georgia.

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<sup>25</sup> Question no. 418/4-1/23, submitted by MP Nino Tsilosani, dated 18.01.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/25689>.

<sup>26</sup> Question no. 3794/3-23/23 submitted by MP Khatia Dekanoidze, dated 24.05.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27395>.

<sup>27</sup> Question no. 4281/3-2/23, submitted by MP Teona Akubardia, dated 05.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27647>.

<sup>28</sup> Answer no. MIA92301627797, submitted by the Ministry of Internal Affairs, dated 08.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27764>.

<sup>29</sup> Answer no. 1129 submitted by the Ministry of Internal Affairs of Georgia, dated 30.06.2023, available at <https://info.parliament.ge/file/1/MpQuestionContent/27943>.

### 3.3. MANDATORY ATTENDANCE OF OFFICIALS AT COMMITTEE SESSIONS

One of the key mechanisms of parliamentary oversight of the security sector is the mandatory attendance of an official at committee sessions. The high-ranking officials of the security agencies – the Minister of Defence and the Minister of Internal Affairs are authorised, and in case of request – obliged to attend committee sessions in accordance with the procedure established by Rules of Parliament, to answer questions asked at the sessions and to present a report about their respective activities.<sup>30</sup>

An exception to this rule in the security sector is the Head of the State Security Service, who is obliged to attend the committee sessions based on a written request of the majority of the list of committee members,<sup>31</sup> which should contain comprehensive information about the issue/issues to be discussed with the official summoned to the committee session.

The Democracy Research Institute requested the following public information from the Parliament of Georgia. In the period of January 2023 - June 2023, how many times and on whose initiative (indicating the author of the initiative) were the Minister of Defence of Georgia, the Minister of Internal Affairs, the Head of the State Security Service summoned to the sessions of parliamentary committees (indicating each committee). How many times did the respective officials appear before the committee on their own initiative and how many times were their attendance initiated by opposition groups.

According to the received answer,<sup>32</sup> based on the request of Reforms Group submitted on 30 March 2023, the Minister of Internal Affairs of Georgia was summoned to the session of the Defence and Security Committee of the Parliament of Georgia. Furthermore, during the reporting period, the Minister of Defence of Georgia was summoned to the Defence and Security Committee at the request of political groups - Reforms Group and For Georgia.

Despite the duty determined by the regulations, none of the officials attended the session of the Defence and Security Committee of the Parliament of Georgia. According to the public information received from the parliament, both officials cited an official visit abroad during the mentioned period as the reason for not appearing at the committee sessions.<sup>33</sup>

According to the correspondence received from the Office of the Parliament of Georgia, during the reporting period, accountable officials – the Head of the State Security Service of Georgia, the Minister of

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<sup>30</sup> The Rules of Parliament of Georgia, Article 40.1.

<sup>31</sup> *Ibid.*, para. 3.

<sup>32</sup> Letter no. 5549/2-7/23 of the Office of the Parliament of Georgia, dated 17.07.2023.

<sup>33</sup> Letter no. 5707/2-7/23 of the Office of the Parliament of Georgia.



Defence of Georgia and the Minister of Internal Affairs of Georgia did not attend the meeting of the Defence and Security Committee on their own initiative.

The absence of accountable officials of the security sector at the hearings of the Defence and Security Committee of the Parliament of Georgia during the spring sessions is an indication that the committee cannot provide adequate parliamentary oversight. At the same time, the breach of the duty imposed by the Rules of Parliament and the failure of the officials to appear before the parliamentary committee indicates that the sense of accountability to the parliament on the part of the security sector is extremely low.

### 3.4. SUMMONING OFFICIALS TO PLENARY SESSIONS

The Parliament of Georgia, based on the request of a parliamentary committee or a group, by the majority of the votes of those present at the plenary session, but with the decision of not less than one third of the full composition of the parliament, summons an official to a plenary session.<sup>34</sup> Summoning to a plenary session is one of the important mechanisms of parliamentary oversight. The Democracy Research Institute has requested information from the Parliament of Georgia as to how many times the authorised entities summoned officials of security agencies to plenary sessions in January 2023 – June 2023. According to the received correspondence,<sup>35</sup> parliamentary committees and groups of the Parliament of Georgia did not request to summon the Head of the State Security Service, the Minister of Internal Affairs or the Minister of Defence to plenary sessions of the Parliament of Georgia. Accordingly, the above-mentioned officials did not appear at the plenary session during the reporting period.

In 2022, within the framework of implementation of the 12 priorities of the European Commission, the Procedural Issues and Rules Committee of the Parliament of Georgia drafted a document on monitoring the implementation of parliamentary oversight mechanisms.<sup>36</sup> According to the report, from the date of implementation of the new version of the Rules of Parliament – from 6 December 2018 to 1 July 2022, no political entity had the initiative to summon an official to the plenary session. This situation has not changed during the reporting period either.

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<sup>34</sup> The Rules of Parliament of Georgia, Article 152.

<sup>35</sup> Letter no. 5590/2-7/23 of the Office of the Parliament of Georgia, dated 18.07.2023.

<sup>36</sup> Report of the Procedural Issues and Rules Committee of the Parliament of Georgia, on the Control of the Enforcement of the Provisions Governing Certain Mechanisms of Parliamentary Oversight under the Rules of Parliament of Georgia, 2022.

### 3.5. INTERPELLATION

Interpellation is a relatively new mechanism of parliamentary oversight. With its implementation, an additional opportunity to increase the effectiveness of parliamentary oversight has emerged. Under the Rules of Parliament,<sup>37</sup> “consisting of no fewer than seven members of parliament, a party is authorised to submit a question, in the form of interpellation, to the government, a body accountable to the parliament and any member of the government.” In order to answer the question, it is necessary for the addressee of the question to attend the plenary session and answer the questions in person.

The Democracy Research Institute requested information from the Parliament on the use of interpellation with regard to security agencies in the period of January 2023 - June 2023. According to the received communication, during the reporting period, the Minister of Internal Affairs of Georgia was addressed once with a question in the form of interpellation.<sup>38</sup> The question sent in the form of interpellation concerned the proportionality of the police force used during the rallies of 7-8 March 2023 and interference with demonstrators’ freedom of expression. The following members of the parliamentary opposition, political groups as well as independent members of parliament submitted questions in the form of interpellation: Khatia Dekanoidze, Roman Gotsiridze, Teona Akubardia, Ana Natsvlshvili, Rostom Chkheidze, Nato Chkheidze, Khatuna Samnidze and Tamar Kordzaia. The Minister of Internal Affairs appeared before the parliament on 19 May 2023. The minister spoke about the actions of the Ministry of Internal Affairs at the rallies of 7-8 March 2023 and answered questions of the members of parliament in accordance with the Rules of Parliament of Georgia. The minister did not voice any important or new information during the interpellation hearing and he brushed off the criticism of the opposition regarding the legality of the interference with demonstrators’ freedom of expression. It is, notwithstanding, significant that a discussion about police response to the rallies of 7-8 March 2023 was held in the interpellation format.

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<sup>37</sup> The Rules of Parliament of Georgia, Article 149.

<sup>38</sup> Letter no. 5591/2-7/23 of the Office of the Parliament of Georgia, dated 18.07.2023.

## 3.6. TEMPORARY INVESTIGATIVE COMMISSIONS

### 3.6.1. OVERVIEW OF THE LEGISLATION

In 2018, the Rules of Parliament were amended and the procedure for setting up a temporary investigative commission was simplified. Under the said changes, the support of one third of the full composition of parliament is required to set up the commission. The following are grounds for setting up a temporary investigative commission:

- Information about illegal actions and corruption crimes committed by state bodies, officials, threatening state security, sovereignty, territorial integrity, political, economic or other interests of Georgia; and
- Information about improper spending of the state budget or the municipality budget.

Under the Rules of Parliament, representation of the opposition in the commission should not be less than half of the total number of members of the commission. If the chairperson of the temporary investigative commission is a member of the majority, the secretary of the commission cannot be a member of the majority, and if the chairperson of the commission is not a member of the majority, the secretary of the temporary investigative commission must be a member of the majority.<sup>39</sup>

A temporary investigative commission is set up to study a specific issue and is disassembled in accordance with the procedure established by the Rules of Parliament, upon the completion of the study of the issue concerned. Temporary investigative commissions are accountable to the parliament. They can be established for a period of no more than three months. In exceptional cases, this period can be extended, but the total period should not exceed six months.

A temporary investigative commission has a broad mandate over the following issues.

- A temporary investigative commission has the right to summon any person and ask for a written explanation regarding the subject under investigation;
- At the request of a temporary investigative commission, state bodies, officials, individuals and legal entities are obliged to submit conclusions and other necessary files necessary for the investigation of the issue within the time limit determined by the commission;
- A temporary investigative commission is authorised to address a written request to the Prosecutor General of Georgia and to read case-files on the spot in accordance with the procedure established

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<sup>39</sup> The Rules of Parliament of Georgia, Article 64.3.

by the Criminal Procedure Code of Georgia; also to read case-files on refusals to institute investigation, if the commission believes that the necessary data for the study of the issue under its consideration can be found in the said case-files;

- An investigator is under a duty, based on the written request of a temporary investigative commission, on the instructions of the Prosecutor General of Georgia, to provide members of the commission with the possibility to read case-files on the spot and to receive copies;
- A temporary investigative commission is authorised to address the parliament with a proposal to collect the signatures of the members of parliament in order to raise the issue of impeachment of the officials determined by the Constitution of Georgia; and
- In order to prepare a specific issue, a temporary investigative commission can set up a working group with the participation of commission members and external experts.

A temporary investigative commission is an important mechanism provided by the Constitution of Georgia and the Rules of Parliament of Georgia. It enables the parliament to carry out oversight of accountable agencies. It is an important tool of the security sector oversight, *inter alia*, in terms of investigating possible incidents of the use of excesses force by law-enforcement officials.

### 3.6.2. THE PRACTICAL USE OF THE MECHANISM

The Democracy Research Institute requested public information from the Parliament of Georgia regarding setting up investigative commissions in the X Parliament of Georgia. Thematically, initiatives regarding setting up investigative commissions can be grouped into several issues:

- It was an initiative of the ruling party to set up a temporary investigative commission to study the elections of 31 October 2020. This is the only initiative to set up an investigative commission, which Georgian Dream presented to the X Parliament of Georgia. The commission was set up. However, no representatives of the opposition participated in it. According to the opposition, enough time had passed after the elections for the ruling party to “make changes” to accommodate its interests.<sup>40</sup> In accordance with the resolution passed by the Parliament of Georgia as a result of the work of the investigative commission, “the parliamentary elections were held in accordance with the legislation of Georgia.”<sup>41</sup>

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<sup>40</sup> Netgazeti, *Investigative Commission in the Parliament, Without Opposition*, 09.02.2021, available at <https://netgazeti.ge/news/517560/>.

<sup>41</sup>Parliament of Georgia, *Resolution of the Parliament of Georgia on Results of Activities of the Temporary Investigative Commission to Study Parliamentary Elections of 31 October 2020*, available at [https://webapi.parliament.ge/storage/files/shares/komisija/archevnebi31.10.2020/parlamentis\\_dadgenileba\\_komisiis\\_saqmian\\_obis\\_shesaxe.pdf](https://webapi.parliament.ge/storage/files/shares/komisija/archevnebi31.10.2020/parlamentis_dadgenileba_komisiis_saqmian_obis_shesaxe.pdf).

- In 2021, the parliamentary faction Lelo – Partnership for Georgia submitted a draft resolution on setting up an investigative commission to study elite corruption. The draft resolution of the Parliament of Georgia on Setting up the Temporary Investigative Commission of the Parliament of Georgia to Study Elite Corruption refers to a range of issues that the commission is entrusted to investigate. These are alleged incidents of elite corruption in Georgia that have not been investigated; possible illegal actions of state and local government officials and civil servants in relation to these alleged incidents and reasons for alleged failure of law-enforcement agencies to act.<sup>42</sup> According to the information at the disposal of the Democracy Research Institute, the draft resolution was not put to the vote at the plenary session, due to the absence of a quorum.
- In 2021, Charles Michel Reforms Group submitted a draft resolution on setting up a temporary investigative commission to study the events that occurred in Tbilisi on 5-6 July 2021. Later, Reforms Group prepared another draft resolution on setting up a temporary investigative commission to study the events that took place in Tbilisi on 5-6 July 2021. According to the information received from the parliamentary opposition, the draft resolution was not put to the vote, due to the failed negotiations among the members of the opposition.
- United National Movement – Strength is in Unity submitted to the Parliament of Georgia a draft resolution on setting up a temporary investigative commission to study an alleged violent, offensive, inhuman and debasing treatment of the third president of Georgia Mikheil Saakashvili.<sup>43</sup> According to the information supplied by the author of this initiative, since the parliamentary faction was unable to mobilise a sufficient number of votes (during this period, the parliament prematurely terminated the mandate of MP Badri Japaridze), the draft resolution was not put to the vote at the plenary session.
- The opposition MPs addressed the Parliament of Georgia with the initiative of setting up a temporary investigative commission to study possible abuse of power by the President of the National Bank and the deliberate actions aimed at disrupting price stability. While the draft resolution was put to the vote at the plenary session on 9 February 2023, it did not get enough votes to be passed.<sup>44</sup>
- In 2016-2017 and in the subsequent period, the opposition MPs presented an initiative to the parliament to set up a temporary investigative commission to study the incidents of covert and systematic cooperation of representatives of the State Security Service of Georgia with the special services of the Russian Federation. Once again, the issue was not put to the vote. Most likely, the authors of the initiative failed to mobilise the appropriate number of supporters.

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<sup>42</sup> Parliament of Georgia, *Draft Resolution on Setting up the Temporary Investigative Commission of the Parliament of Georgia to Study Elite Corruption*, available at <https://info.parliament.ge/file/1/BillReviewContent/276408>.

<sup>43</sup> Parliament of Georgia, *Memorandum on the Draft Resolution of the Parliament of Georgia*, available at <https://info.parliament.ge/file/1/BillReviewContent/294209>.

<sup>44</sup> The Parliament of Georgia, available at <https://info.parliament.ge/v1/law-drafting/bills/24688/details/80223>.

- In June 2023, Reforms Group registered the draft resolution on setting up a temporary investigative commission to study corruption and other illegal actions in the Georgian judiciary. While the parliamentary opposition was able to mobilise the required number of members of parliament to support the initiative, the draft resolution was not put to the vote. In order to fail the resolution, the majority MPs did not go through the mandatory registration procedure at the plenary sessions for three days in a row.<sup>45</sup> The Chairperson of Georgian Dream Irakli Kobakhidze stated at the plenary session that due to the interests of the independence of the court, the majority would not go through the registration, “as a show of political solidarity towards the judges.”<sup>46</sup>
- Georgian Dream acted in a similar way to fail deliberately the draft resolution initiated by a parliamentary political group For Georgia that concerned setting up a temporary investigative commission of the Parliament of Georgia to study transnational crimes committed by organised criminal groups through fraudulent call centres and possible inappropriate responses to them. Georgian Dream did not go through the mandatory registration procedure before the vote.<sup>47</sup>

The study of the issue clearly shows that despite the legislative changes, the ruling party has the opportunity to impede setting up of a temporary investigative commission through procedural manipulations. Since the parliamentary opposition does not hold the majority of the full composition of the parliament required to recognise the authority of the plenary session, the ruling party will always be able to prevent from setting up a temporary investigative commission through procedural sabotage.

To summarise, it can be said that in the X Parliament of Georgia Georgian Dream submitted a draft resolution on setting up a temporary investigative commission only once and managed to set up the commission. The parliamentary opposition tried seven times to set up a temporary investigative commission, but failed in all seven cases. The most frequent reason for this failure was that the authors of the initiatives could not mobilise the required number of supporters. However, in two cases, when there was almost unanimous support of the opposition regarding the issue, the parliamentary majority prevented setting up temporary investigative commissions through procedural manipulations.

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<sup>45</sup> In accordance with the Rules of Parliament, the registration of members of parliament is carried out before voting (Article 91.2). A plenary session of the parliament is authorised if the majority of the full composition of the Parliament is present (Article 91.1).

<sup>46</sup> The Parliament of Georgia, *No Quorum to Voting on the Draft Resolution on Setting up a Temporary Investigative Commission to Study Corruption and Other Illegal Actions in the Judiciary*, available at <https://parliament.ge/media/news/sasamartlo-sistemashi-koruftsiuli-da-skhva-kanonsatsinaaghmdego-kmedebata-shemstsavleli-droebiti-sagamodziebo-komisiis-shekmnis-shesakheb-dadgenilebis-proektis-kenchisgristvis>.

<sup>47</sup> The Parliament of Georgia, *Parliament Fails to Vote on Setting up a Temporary Investigative Commission to Study Activities of the So-called Call-Centres*, available at <https://parliament.ge/media/news/parlamentshi-e-ts-koltsentrebis-sakmianobis-shemstsavleli-droebiti-sagamodziebo-komisiis-shekmnis-sakitkhs-kenchi-ver-egara>.

# ASSESSMENT OF THE ACTIVITY REPORT OF THE STATE SECURITY SERVICE

## 4

Submission of the activity report of the State Security Service to the Parliament of Georgia is an important stage of accountability and democratic oversight of the key security agency. Accordingly, the parliamentary hearing of the report should take place on time, with the involvement of all political groups, and based on the deliberations of the report, the Parliament of Georgia should develop substantive recommendations.

The State Security Service submitted the 2022 activity report to the Parliament of Georgia on 13 April 2023.<sup>48</sup> On the other hand, the Bureau of the Parliament set the deadline for reviewing the report of the State Security Service on 18 April 2023.<sup>49</sup> For the steering committee (Defence and Security Committee of the Parliament of Georgia), the estimated period for hearing the report was determined with a range of one month – 24 April 2023 - 24 May 2023.

In 2023, the vicious practice of postponing the committee hearing of the State Security Service report was repeated, and the Defence and Security Committee,<sup>50</sup> based on a request of the Legal Issues Committee, asked the Parliamentary Bureau for a 60-day postponement for both the steering and mandatory committees. On the other hand, the Bureau of the Parliament of Georgia set a broad deadline for the committees to hear the report on 8 May 2023.<sup>51</sup> The revised deadline for the Steering Committee was

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<sup>48</sup> The State Security Service, *the 2022 Activity Report of the State Security Service*, available at <https://info.parliament.ge/file/1/BillPackageContent/38924>.

<sup>49</sup> The Parliament of Georgia, *Decision of the Bureau of the Parliament of Georgia on the Initiation of a Draft Normative Act Deliberations Procedure*, available at <https://info.parliament.ge/file/1/BillPackageContent/38958>.

<sup>50</sup> The Parliament of Georgia, *Letter no. 2-6848/23 of the Defence and Security Committee*, available at <https://info.parliament.ge/file/1/BillReviewContent/327403>.

<sup>51</sup> The Parliament of Georgia, *Decision of the Bureau of the Parliament of Georgia on the Initiation of a Draft Normative Act Deliberations Procedure*, available at <https://info.parliament.ge/file/1/BillReviewContent/327563>.

from 25 May 2023 to 19 October 2023. The period from 16 May 2023 to 20 October 2023 was scheduled for the deliberations of the report at the plenary session.

Such a long period of committee consideration would be useful if the Parliament of Georgia were using this time for a detailed study of the report of the State Security Service and development of specific recommendations. However, the experience of postponing committee sessions in 2022 did not give grounds for positive expectations. At the committee hearing of the 2021 report of the State Security Service, the deputy head of the agency formally presented the report, and the Q&A session continued behind the closed doors. A similar procedure took place in 2023. The Parliament of Georgia positively assessed activities of the State Security Service in 2021, without making any recommendations. Based on the deliberations of 2023, it is likely that the Parliament of Georgia will conclude the deliberations on the 2022 activity report with a similar assessment.

The 2022 activity report of the State Security Service does not differ much from the 2021 report, despite the fact that the ongoing war in Ukraine has significantly increased and modified the security challenges for Georgia.

The report names the Russian occupation and the illegal Russian military bases located in the occupied territories of the country among the main security problems. “Intelligence activities of special services of foreign countries” using the tools of hybrid warfare is also indicated as a challenge. However, it should be noted that the Russian special services are not mentioned in this context.

In general, according to the observations made by the Democracy Research Institute, no part of the report, except for the chapter concerning the occupied territories, mentions the illegal actions of the Russian Federation in the territory controlled by the central government of Georgia. It is noteworthy that there is no reference to threats from Russia in such sub-chapters as „**Disinformation and other threats of “hybrid war”, “Disinformation and propaganda”, “the so-called Soft Power and Covert Operations’ and ‘Cyber Security”**”. Considering international organisations, especially in the context of the war against Ukraine, name Russia as the main actor spreading disinformation,<sup>52</sup> it raises questions that the report remains reticent about the role of Russia in terms of operations of information manipulation in Georgia. For instance, the report of European External Action Service (EEAS),<sup>53</sup> which concerns foreign information manipulation and interference in 2022, names Russia and openly pro-Kremlin agents as the main source

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<sup>52</sup> OECD, *Disinformation and Russia’s War of Aggression Against Ukraine*, available in English at [https://www.oecd.org/ukraine-hub/policy-responses/disinformation-and-russia-s-war-of-aggression-against-ukraine-37186bde?fbclid=IwAR3uLvdRsWC\\_NBNTDV-vjTxMkB0DjPvmANRAiKpPi-uxhNxnZMOk\\_OiYbTM](https://www.oecd.org/ukraine-hub/policy-responses/disinformation-and-russia-s-war-of-aggression-against-ukraine-37186bde?fbclid=IwAR3uLvdRsWC_NBNTDV-vjTxMkB0DjPvmANRAiKpPi-uxhNxnZMOk_OiYbTM).

<sup>53</sup> European External Action Service (EEAS), 2022 Report on EEAS Activities to Counter FIMI, available at [https://www.eeas.europa.eu/sites/default/files/documents/EEAS-AnnualReport-WEB\\_v3.4.pdf](https://www.eeas.europa.eu/sites/default/files/documents/EEAS-AnnualReport-WEB_v3.4.pdf).



of disinformation in the world. According to the report, fake and manipulative media content is being disseminated by Russia through official diplomatic channels as well as state media and Russia's actions have both domestic and foreign dimensions.

Much of the report of the State Security Service is still punctuated with general phrases. It should be noted that when describing activities carried out in terms of the fight against terrorism, the report is relatively detailed - the name of the person arrested on charges of terrorism is named, facts and statistical data are given. However, the part of the report that concerns the hybrid war is extremely vague and abstract. The report generally refers to actions aimed at deepening polarisation in society, attempts to damage state institutions, and sociological surveys conducted by non-governmental organisations funded by foreign countries, without naming the relevant organisations or states. Naturally, the question arises – if the State Security Service has information about the involvement of any organisation in actions damaging state institutions, funding of foreign countries or their support in some other way, why these organisations are not named, whereas in another chapter of the report, for example, the identity of a person accused of terrorism is made public. Naming and exposing the organisations participating in the hybrid war, as well as taking legal measures against them, would help reduce their influence and increase public trust in the State Security Service.

Despite the fact that openly pro-Russian far-right groups have become extremely active and make efforts to exert a significant negative influence on the political agenda, the agency responsible for the country's security does not spare attention for this issue. The State Security Service does not even address this issue in a general way in the 2022 activity document.

## 4.1. OCCUPIED TERRITORIES

The 2022 report of the State Security Service begins with a description of the current situation in the occupied territories. According to the report, the Russian-Ukrainian war had a significant impact on the occupied territories, and Russia used for hostilities in Ukraine its military units based on the occupied territories of Georgia, as well as the residents of the occupied territories, who ended up on the Ukrainian front due to mandatory conscription. The report cited the death of “a number of people” without specifying an estimated number.

The report of the State Security Service mentions several facts that deepened the annexation of territories occupied by Russia in 2022. The report discusses the transfer of large areas of Abkhazia, entire settlements to the Russian Federation or to Russian high-ranking officials, as well as the process of harmonisation of legislation. The State Security Service also mentions the economic pressure that the occupying country exerts on the *de facto* authorities in order to make the desired political decisions. However, the report does not contain any information about what the agency has done to contain these risks.

According to the statistical data supplied in the report, in 2022, nine citizens of Georgia remain in unlawful imprisonment with long-term sentences, including Irakli Bebuia. According to the report, the State Security Service continues to use every avenue at its disposal to obtain the unconditional release of those in custody.

## 4.2. STATE SECURITY AND COUNTER-INTELLIGENCE ACTIVITIES

This chapter of the activity report of the State Security Service is the most vague and speculative, without any details that would give an idea to members of parliament about the actual challenges and threats facing the state security. The mentioned chapter uses such vague terms as “destructive forces”, “hostile entities”, “individual organisations or individuals”, “destructive external actors”, “foreign countries” – without going into any further details.

The chapter concerning state security and counterintelligence activities mentions Russia’s attack on Ukraine and occasional military incursions between Armenia and Azerbaijan as security challenges for 2022. In addition to the dangers of conventional warfare, the State Security Service cites disinformation campaigns and various tools of hybrid warfare that have been used in Georgia. **However, unlike the overview of the situation in the occupied territories, there is no reference in this part of the report to the role of Russia, which is rightly considered the main source of threat to the state security of Georgia.**

According to the report,

*“Internal and external actors, appealing to patriotic sentiments, spread statements directed against the interests of the national security of Georgia and called on the population to carry out destructive actions that harm the security of the country.”<sup>54</sup>*

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<sup>54</sup> *The 2022 Report of the State Security Service*, p. 16.

*“The security environment in the country were being damaged by activities aimed at further polarisation of society by **hostile entities**, attempts to disrupt the functioning of state institutions, calls for violent overthrow of the government and promotion of social destabilisation are critically important.”<sup>55</sup>*

It should be noted that there were many general passages of similar content in the 2021 activity report of the State Security Service. Similarly, the last year, the agency did not specify in the 2022 report who the “internal and external actors” mentioned in the report were and by whom they were handled. It is an opinion of the Democracy Research Institute that such generalised passages are problematic in several ways:

- If it is confirmed that the actions of “internal actors” are against the interests of state security, the names, founders, financiers of these “actors” should be disclosed and specific destructive actions performed by them should be specified;
- In those cases, where investigation is still pending and the State Security Service, based on the interests of the investigation, refrains from naming these organisations, this may indicate the ineffectiveness of the service. It can be considered to be alarming that for two years (2021-2022) the State Security Service failed to obtain evidence about the activities of “domestic actors”, to prevent their activities in accordance with law, and to ensure the imposition of criminal liability on the persons involved in these activities; and
- The activity of the State Security Service should be assessed negatively even if there is no investigation pending into the mentioned actions, since these actions aimed against the interests of the state security contain crimes envisaged at least by two articles of the Criminal Code.<sup>56</sup>

The State Security Service without any substantiation or facts, points to general groups that pose a threat to the security of the country, but at the same time, fails to provide any information to citizens of Georgia or the Parliament of Georgia about these groups, their concrete actions, funding, sponsoring states/organisations or accomplices. Without all these details, this part of the report is devoid of any value. It does not show any actual threats to the country's security or efforts of the State Security Service to avert these threats.

This part of the report of the State Security Service expresses a concern regarding the fact that in 2022, completely unsubstantiated accusations devoid of any facts were made against the service and the

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<sup>55</sup> *Idem.*

<sup>56</sup> Appeal to change the Constitutional Order of Georgia through violence or to overthrow the state government, Article 317 of the Criminal Code and Sabotage, Article 318 of the Criminal Code.

management of the service was subjected to a deliberate smear campaign. However, against the backdrop of the situation, where it is still unknown at what stage the investigation of leaked files of the State Security Service in 2021 is, it will be difficult for the State Security Service to gain the trust and goodwill of the public. These are necessary components for the functioning of the security system in a democratic state, which is based on the cooperation of citizens and the security sector.

### 4.3. FIGHT AGAINST CORRUPTION

In the 2022 report of the State Security Service, similar to the previous years, a separate chapter addresses the fight against corruption. According to the report, the fight against corruption is the service's priority and a number of effective steps were taken in this direction. Similar to the previous years, a relatively large part of the report concerns the information on the activities of the Anti-Corruption Agency. The document contains information about the statistics of the cases investigated in accordance with the procedure of investigative jurisdiction, the number of persons held responsible, the preventive measures taken by the service and the measures aimed at raising awareness. Nevertheless, substantive information is scarce and the report fails to give a concrete idea about the activities of the Anti-Corruption Agency.

According to the report, "the Anti-Corruption Agency under the State Security Service of 2022 carried out a number of complex measures, both in terms of operative and investigative actions, as well as analytical and preventive measures." It is noted that the Anti-Corruption Agency instituted investigation in 61 cases. However, there is no substantive information about concrete cases. Compared to the previous year, the number of investigations have increased (according to the 2021 report, investigations were initiated in 53 cases). However, the frequency of initiation of investigations alone cannot imply effective activities of the Anti-Corruption Agency.

The concept of a whistle-blower is especially important in the fight against corruption. The working group set-up within the framework of the implementation of recommendations of the European Commission has given this mandate to the new Anti-Corruption Bureau, although the regulatory framework of the whistle-blower institute is still in disorder. It is commendable that while the 2021 report of the State Security Service only generally mentioned the institute of whistle-blowers,<sup>57</sup> the 2022 report provided specific statistics on the information provided by whistle-blowers, in connection with which the State

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<sup>57</sup> The State Security Service, The 2021 Activity Report of the State Security Service of Georgia, p. 37, available at <https://bit.ly/3BFAkB7>.

Security Service instituted investigations. In particular, it is noted “in 2022, out of 61 criminal cases, the Anti-Corruption Agency under the State Security Service launched investigation regarding 21 statements submitted by whistle-blowers.”

Similar to the previous years, the 2022 report does not show in which case the Anti-Corruption Agency initiates an investigation and in which case the case is forwarded to other agencies in accordance with the requirements of investigative jurisdiction. In this context, it is worth mentioning that in 2022, the Anti-Corruption Agency under the State Security Service repeatedly launched an investigation into fraud, despite the fact that, according to the order of the Prosecutor General, fraud does not fall within the investigative jurisdiction of the State Security Service of Georgia.

For years, elite corruption has remained a significant challenge. In recommendation no. 4 of the European Commission, there is a direct reference to the importance of addressing high-level corruption. Unfortunately, the 2022 report of the State Security Service is no exception in this regard – it does not refer to investigation of any cases of high-level corruption. It is no news that the Anti-Corruption Agency mainly fights petty corruption crimes.

In accordance with international standards, it is necessary for the Anti-Corruption Agency to operate with a high degree of transparency and accountability. It is necessary, in order to increase the public trust, to ensure that the reports of the State Security Service contain more detailed information about the measures taken by the agency.

#### **4.4. ACCOUNTABILITY**

It is an opinion of the Democracy Research Institute, that the weakest parliamentary oversight is carried out with regard to the security agencies, including the State Security Service and the Operational Technical Agency. For instance, the interpellation mechanism has never been used in relation to the Head of the State Security Service. The head of the service has never been summoned to plenary sessions, and the mechanism of submitting a written question is used the least when it comes to the State Security Service and the Operational and Technical Agency out of all the security agencies. For instance, according to the data of 2022, 36 questions were sent to the Ministry of Defence, 99 questions were submitted to the

Ministry of Internal Affairs, 28 questions to the State Security Service, and only one question was addressed to the Operational and Technical Agency.<sup>58</sup>

The section of the State Security Service's 2022 activity report that deals with accountability is traditionally general in nature and does not provide specific details. For example, according to the report, during the reporting period, the service supplied appropriate answers to 80 questions received from the Parliament of Georgia (36 of them were submitted by the Trust Group).<sup>59</sup> However, it is not specified what kind of questions are meant hereby. Since, according to the data of 2022, the number of parliamentary questions sent to the State Security Service does not exceed 28, it should not be difficult to include detailed information in the report regarding the substance of the questions, how many questions the State Security Service answered and how many remained unanswered, indicating the relevant reason. While the report mentions six working meetings that were held with the Trust Group, it does not specify the topics or agendas of the meetings, the number of participants or their official positions.

According to the report, in 2022, the Personal Data Protection Service actively supervised covert investigative actions, within the framework of which a random inspection was carried out and a meeting with the Head of the State Security Service was held.<sup>60</sup> However, it remains unknown to members of parliament (and the public) what the agenda of the meeting was, how many meetings were held, etc.

According to the document, the Personal Data Protection Service did not reveal any breaches of the statutory requirements during random inspections of investigative actions of covert surveillance. The service only issued mandatory tasks to relevant authorities. The report does not contain any information about the substance of tasks or the state of their implementation.

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<sup>58</sup> Democracy Research Institute, *Parliamentary Oversight of the Security Sector, Its Significance and Challenges, 2020-2022*, 28.02.2023, available at <https://bit.ly/45gboh6>.

<sup>59</sup> The State Security Service, *Report of the State Security Service of Georgia, 2022*, p. 39, available at <https://bit.ly/43eY3np>.

<sup>60</sup> *Ibid.*, p. 40.

## KEY FINDINGS

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- The main reason for the weakness of parliamentary oversight of the security sector is the lack of political will. In order to implement effective oversight, members of parliament should more actively use the oversight mechanisms envisaged by the Rules of Parliament currently in force;
- Parliamentary oversight mechanisms are limited when it comes to the parliamentary opposition. In many cases, the implementation of oversight mechanisms depends on the approval of the parliamentary majority;
- The role of the opposition in the activities of the Trust Group is limited;
- The Parliament of Georgia is not in a position to assess the activities of the Trust Group, since the sessions of the group are closed. The Trust Group is not obliged under the Rules of Parliament to inform the parliament about its activities;
- The level of accountability of officials of security agencies is low. Despite the request to attend committee sessions under the Rules of Parliament, the officials fail to appear before the committees;
- The parliamentary opposition is not entitled to summon independently the Head of the State Security Service to a parliamentary committee's sessions;
- In the reporting period, only two members of parliamentary majority submitted questions to the security agencies (two questions in total);
- Analysis of the questions submitted by members of parliament reveals that there is a need to have a group of qualified specialists working with the committees of the parliament, who would advise and help members of parliament to expand substantive area of oversight;
- In the reporting period, the interpellation mechanism was used for the first time with regard to a security agency;
- A number of important issues are omitted or formally mentioned in the 2022 activity report of the State Security Service, without presenting any concrete analysis or activity results;

- After the presentation of the report of the State Security Service to the parliament, the Parliament of Georgia, as per its established notorious practice, continued the Q&A session behind the closed doors; and
- Despite the amendments made to the Rules of Parliament of Georgia, the 2022 activity report of the State Security Service was again presented to the parliament by the deputy head of the service in violation of the Rules of Parliament.