

Chapter III

TARGET OBJECTS OF MONITORING



The present report includes the analysis of data collected and tendencies analysed by IDFI, within the framework of the project **“Information Resources (Official Web-pages) Monitoring of Public Authorities of Georgia”**. This is targeted at increased content transparency of public authorities official web-pages of Georgia and their accessibility for the public. In general terms, the aim of this activity is the development of e-Governance and information transparency from the point of view of public authorities’ transparency and accountability enhancement.

Together with it, the information presented in this report will be interesting for the wide range of readers (teachers, students, journalists, lawyers and other interested persons); though the public officers’ interest towards the report would also be desirable. This is complicated by the fact that nowadays the existing legislation of Georgia does not foresee the existence of legislative acts and/or the unity of legislative norms that would oblige all public authorities to have their own official web-page address, on which the public authority would publish information considered by the legislation.

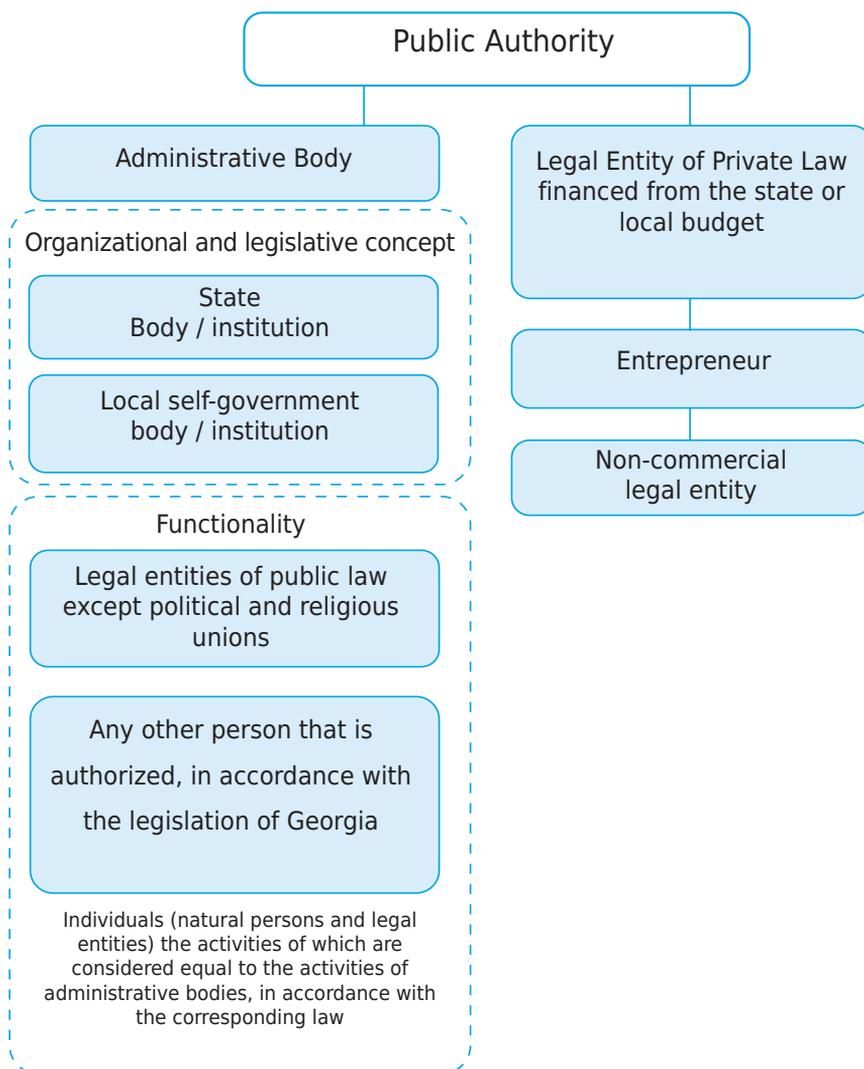
Before beginning the description of the monitoring process and its results, we would like to say a few words about the selection criteria of public authorities and the criteria for evaluation of their transparency and quality of informativeness.

Public Authorities

According the Administrative Code of Georgia (clause 27) the term “Public Authority” is defined as the “administrative body, legal entity of public law financed from state or local budget”. Here it should be mentioned that the term mentioned above is used only in the context of the information transparency, for the purposes of the regulatory chapter (Chapter 3 - Information Transparency) of General Administrative Code.

According to the 2nd chapter of the same Code the term **“administrative body” is defined as all self-governing state or local body or institution, legal entity of public law (except of political and religious unions), and any other individual who realizes certain authority in accordance with the legislation of Georgia.**

Consequently, we may conclude that for the purposes of openness of public information, the public authority is the following:

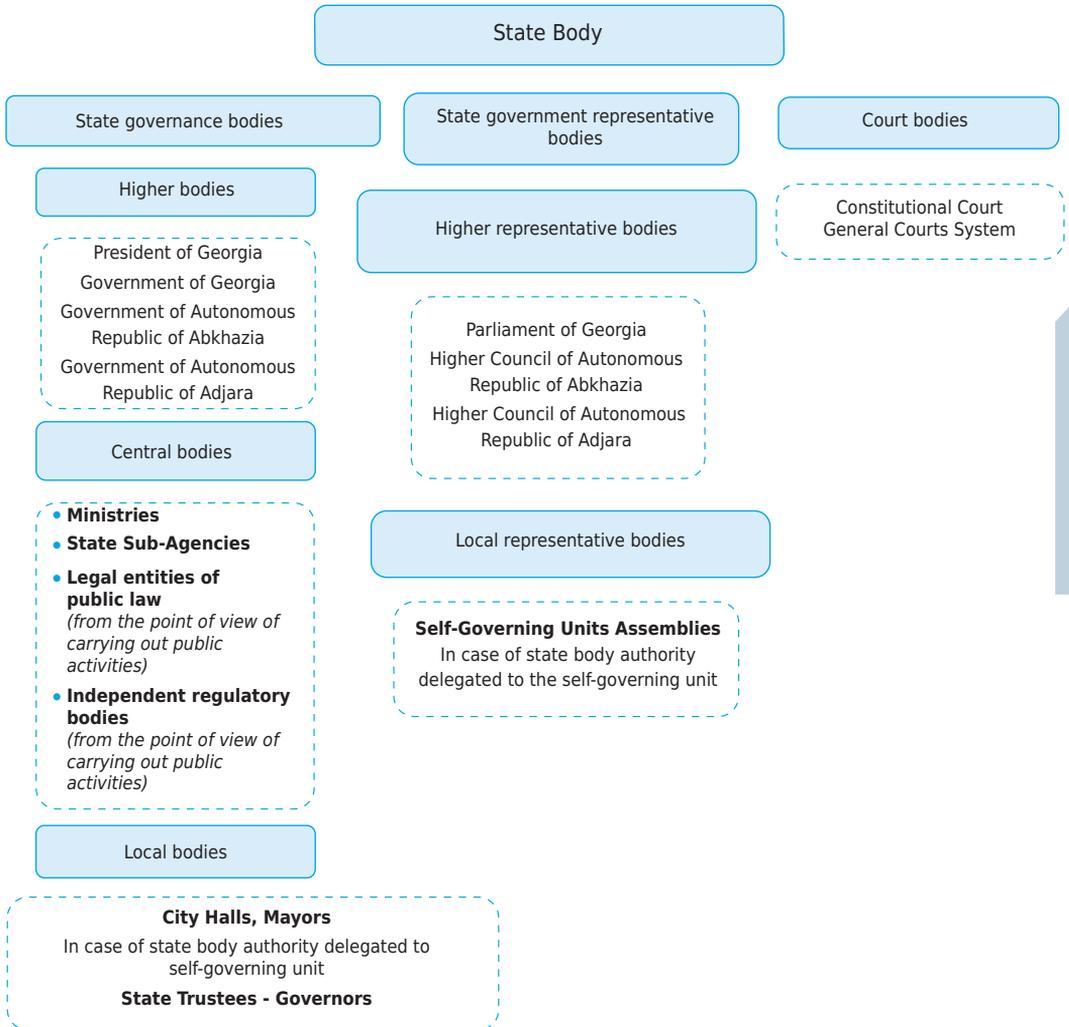


The drawing presented above shows that **for the purposes of openness of public information, the term “public authority” has the widest meaning and involves the concept like administrative body; and in narrow meaning it also involves the state body.**

Therefore, IDFI faced the task of selecting monitoring targets category that would somehow make discussion on the openness of public information easier based on official web-pages of public institutions. For the purposes of the monitoring the IDFI working team selected the category of state bodies of public authorities.

State Body

As it is known **the state body is established to realize main tasks and functions of the state, as well as, for the purpose of public policy administration.** For the purposes of state function realization, the state body possesses special authority; it passes obligatory acts and uses imperative methods for their realization.



The IDFI working group selected the following central bodies of state government as targets of monitoring: ministries and legal entities of public law under the ministries' governance. This choice was mostly conditioned by a number of factors. One of the factors was the fact that e-Governance signs were mostly developed on official web-pages of Ministries of Georgia and Legal Entities of Public Law; besides, central bodies of state government were characterized with the abundance of internet web-pages. The second factor providing for the selection was the condition that the parameters of the evaluation table of web-pages information transparency were fit to the central bodies of state government. This was carried out by study and definition of those general legislative, organizational and functional criteria that are characteristic to central bodies of government in Georgia. **Below we present the general review of characteristics of central bodies of state government, to make clear what we mean by criteria mentioned above.**

State Government Central Bodies

MINISTRIES

When we speak about such important circle in the system of state government central bodies like Ministries, we must by all means mention the Government (Higher Body of State Governance); this is conditioned by the fact that **the Ministry - the government institution of executive body represents the government department.** The first point of clause 4 of law of Georgia on “the Structure, Authority and the Rule of Activities of Georgian Government” states that: “the government administers the executive government by means of ministries and the sub-agencies under the governance of these ministries”. And according to the 1st point of clause 14 of the same law “the Ministry is established on the basis of law, for the purpose of state government ensurance in certain field of public life”. According to the existing legislation of Georgia all the ministries of Georgia are accountable to the government of Georgia; all ministries of Georgia are financed from the state budget. The head of the Ministry is a Minister, who has the first Deputy Minister and Deputies; **one of the important documents regulating the general activities of the Ministry is the Statute of the Ministry.**

Statute of the Ministry

In accordance with the existing legislation of Georgia must include the following:

- **Full name of the Ministry and its address**
 - According to the first clause of the statute of the Ministry of Finances of Georgia, **the permanent address of the Ministry is 16, Gorgasali str. Tbilisi, 0105. The full name of the Ministry is “the Ministry of Finances of Georgia;**
 - According to the first clause of the statute of the Ministry of Education and Sciences of Georgia, **the permanent address of the Ministry is 52, Uznadze str. Tbilisi, 0146.** The name of the Ministry is not given directly, the information is received from the context of the statute;
 - According to the first clause of the statute of the Ministry of Environment Defence and Natural Resources of Georgia, **the permanent address of the Ministry is 6, Gulua str. Tbilisi.** The name of the Ministry is not given directly, the information is received from the context of the statute;
- **Field of the Ministry activities, its tasks and functions**
 - Fields of agriculture, increase of ground productivity, plants defence, cattle-breeding, agricultural engineering and veterinary - **field of governance of Ministry of Agriculture of Georgia;**
 - Economic policy, trade and investments, tourism, management and

administration of state property, urban development and space and territorial arrangements, building and construction, electronic communications, information technologies, post, transport sphere regulation and management - **general fields of activities of the Ministry of Economy and Sustainable Development of Georgia;**

- Participation in localization of natural disasters, participation in military mobilization plan, development of unified policy in the field of transportation, coordination and control - **tasks of the Ministry of Regional Development and Infrastructure of Georgia;**
- Ensuring of balancing of the state budget, execution of the expenditures part of the state budget, operative management of income, accounting and calculating, affirmation of budget classification and making alterations to it - **functions of the Ministry of Finances of Georgia;**

- **Organization of the Ministry management, rights and responsibilities of heads**

- Head of the Ministry is a Minister that is assigned to the position by the Prime Minister, in accordance with the consent of President of Georgia.
- **organization of the management of the Ministry of Finances of Georgia;**
- The Minister represents the interests of the Ministry with natural persons and legal entities, signs agreements, contracts, is personally accountable to the government of Georgia, for carrying out tasks and duties - **rights and responsibilities of the Minister of Energy of Georgia;**

- **System and structure of the Ministry, the main tasks and competencies of the structural sub-units**

- The system of the Ministry consists of central structural units of the Ministry, corresponding structures of Autonomous Republics of Abkhazia and Adjara, territorial bodies of the Ministry, state sub-agencie under the governance of the Ministry and the legal entities of public law under the governance of the Ministry - **system of the Ministry of Economics and Sustainable Development of Georgia;**
- Tasks of the structural sub-units of the Ministry, management, internal structural units and their main tasks, list of positions, subordination and delegation, official form for correspondence and the rule of its use are defined by the statute of the Ministry and the statutes of the structural units that are affirmed by the Minister. The structural units of the Ministry are the following:
 - Department of Finance Issues
 - Department of Legal Issues

- Department of International Affairs
- Department of Migration, Repatriation and Refugees Issues
- Department of IDP Issues
- Administrative Department
- Internal Oversight Department

Structural unit of the Ministry may be divided into sub-departments, the heads of which are assigned and released from the position by the Minister.

- Territorial bodies of the Ministry are: a) Governing body of Adjara and Samegrelo-Zemo Svaneti; b) Governing body of Imereti, Guria, Racha-Lechkhumi and Kvemo Svaneti; c) governing body of Kvemo Kartli, Mtskheta-Mtianeti and Kakheti; d) governing body of Shida Kartli and Samtskhe-Javakheti - **structure of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia;**
- The Unified Headquarters of Armed Military Forces of Georgia manages military and mobilization trainings; manages military forces of Georgia during wars; police department under its governance carries out the following activities: investigation of cases that belong to the ministry, in correspondence with the Criminal Procedural Code of Georgia; control of discipline of armed forces on the territory of armed forces and beyond its borders, defence of places of administrative arrest, ensuring the safety of military points and other activities foreseen by the legislation - **main tasks of the structural sub-unit of the Ministry of Defence of Georgia;**
- The competencies of the Ministry apparatus include: a) control over the execution of Minister's orders; B) organization of the meetings of the ministry management, processing of minutes; c) planning and scheduling of meetings; d) organization of the business trips; e) regulation of issues regarding meeting with citizens; f) support of the activities of the Minister's advisors - **main tasks of one of the structural sub-units of the Ministry of Environment Protection and Natural Resources of Georgia**
- **Other important issues regarding the organization of the Ministry activities**
 - The activities of the Ministry are financed from the state budget, according to legislation the Ministry is accountable on targeted use of budget resources - **financing of the Ministry of Education and Sciences of Georgia;**
 - The property of the Ministry is represented by main and turnover means granted to the Ministry, financial resources, as well as, property registered

on the Ministry balance - **property of the Ministry of Economic and Sustainable Development of Georgia;**

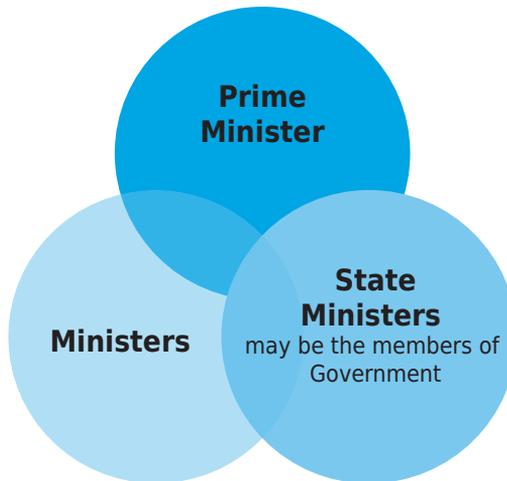
- The Minister is authorized to make up commissions and councils that have the corresponding authority for the purpose of studying certain issues (further - Advisory Bodies); the Advisory Body is established on the basis of the Minister's order, the order defines its tasks, head (deputy head and secretary if it is necessary) and members, deadline for the task accomplishment, the rule of conclusions and statements preparation and the structural sub-units ensuring the functioning of the Advisory Body - **advisory bodies of the Ministry of Justice of Georgia;**
- Legislative basis of the activities of the Ministry are the following: Constitution of Georgia, international legislative acts, Law of Georgia on "the Structure of Georgian Government, its Authority and Activities", law of Georgia "on Defence", orders and resolutions passed by the president of Georgia, legislative acts passed by the Government of Georgia and the Prime Minister, the statute of the Ministry and legislative acts of Ministry of Defence - **legal foundations of activities of Ministry of Defence of Georgia;**
- The Ministry is accountable to the President and Government of Georgia and carries out activities considered by the law or tasks put forward by the President of Georgia and Prime Minister - **accountability of the Ministry of Internal Affairs of Georgia;**
- The Ministry uses the State Flag and State Emblem, and other state symbols in accordance with existing legislation. The State Emblem of the Ministry is placed on the façade of the Ministry. And a smaller symbol of the State Emblem is used in permission documents of the ministry and its territorial bodies, in ID documents of the employees and official letter forms; Ministry has its logo that is registered in accordance with the acting legislation. The logo of the Ministry may be used only by territorial bodies of the Ministry, the corresponding departments of Adjara and Abkhazia Autonomous Republics, state sub-agencies, at business cards of the Ministry, in other printed publications, as well as the Ministry souvenirs and transportation means that are under the property of the Ministry - **symbolics of the Ministry of Environment Protection and Natural Resources of Georgia.**

As a rule, the statute of the Ministry is affirmed by the Government of Georgia on the basis of the corresponding resolution and the Minister's official letter; though the statutes of Ministry of Internal Affairs and the Ministry of Defence and Justice are affirmed by the President of Georgia.

In general, when speaking about competencies of ministries, we should mention the rule defined by the existing legislation of Georgia, according to which the Ministry has no right to delegate its rights to other government and non-governmental institutions if the legislation of Georgia does not consider anything different. And while talking about management fields of ministries, we should mention the acting norm according to which if the issue delivered to the executive government does not belong to any of the ministry activity fields, in accordance with the law, then the decision on the issues is made by the Government. The Government is also authorized to make decision on issues that belong to the functioning sphere of any of the Ministry, if the Ministry does not make the decision or prolongs the decision. The exceptions to this rule are issues concerning security, defence, public safety and issues connected with the Procedural Legislation of Georgia. And finally, if the issue belongs to the field of the Ministry activities and the Ministry which must make the decision is not defined, then the decision on the issue is made by the Government.

While talking about management of Ministries, we should mention the role of Ministers in Government, where they represent the core of the Government:

Members of Government of Georgia



The role of Minister as an official is also very significant from the point of view of public service organization:

Bodies of Public Government

Bodies of Public Government

Public Officers

State Budgetary Institution

State institutions the employees of which are considered to be in public service

- **Parliament of Georgia**
(except of fractions, temporary investigation commissions and other temporary commissions)
- **Administration of the President of Georgia**
- **Cancellary of Parliament of Georgia**
Apparatus of State Minister of Georgia
Ministries of Georgia and State-Sub Agencies
- **Justice Council of Georgia**
- **Constitutional Court of Georgia**
General courts
Prosecutor's Office of Georgia
- **National Bank of Georgia**
- **Control Chamber of Georgia**
- **Public Ombudsman of Georgia and corresponding agencies**
- **State trustees - governors and their administration**

State institutions of Abkhazia and Adjara

Higher representative bodies (except of the fractions of these bodies) and institutions of executive government

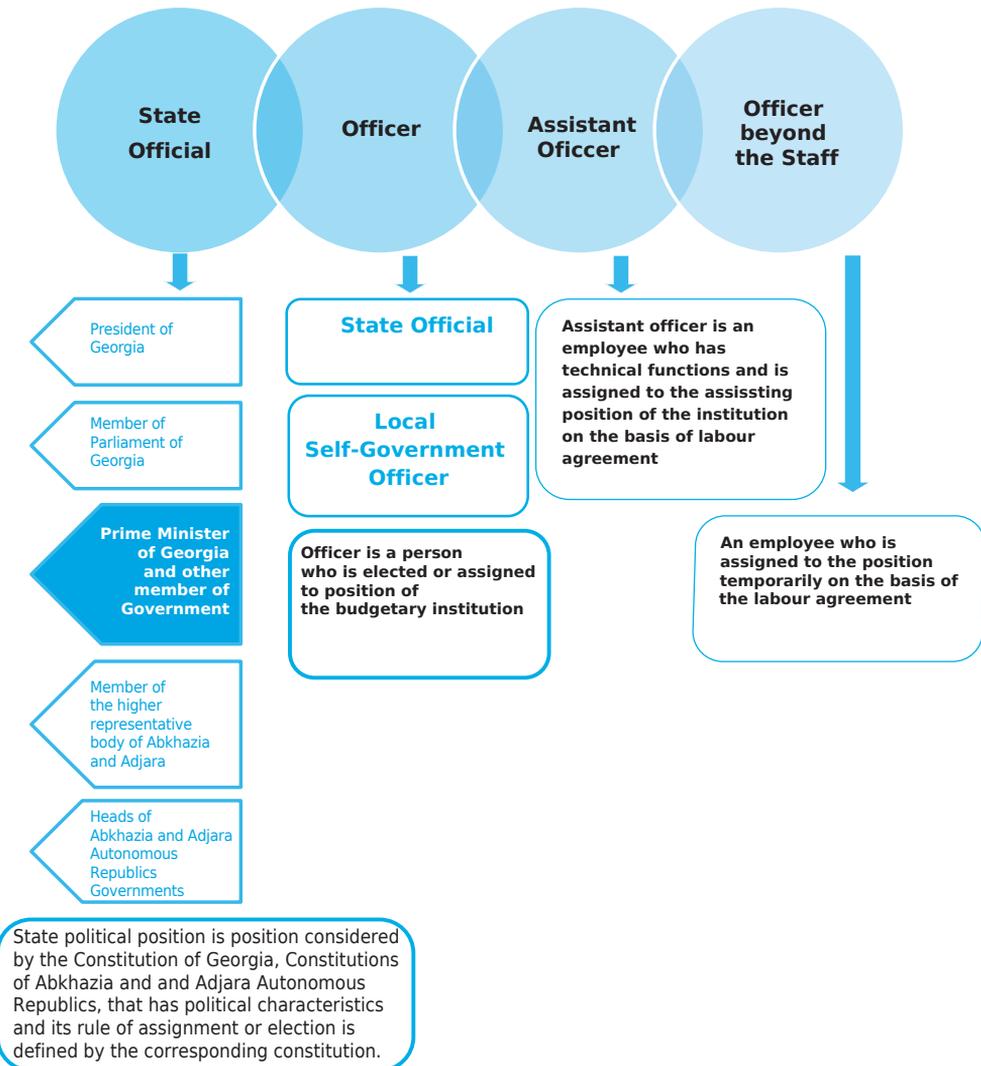
Local self-government (budgetary) institution

Institutions of local self-government the activities of which are considered public

- Assembly
- City Hall
- Municipality

The service in institution is considered as public service only in case when the mentioned is the budgetary institution (treasury institution), budgeted from the state budget, the autonomous republic budget or the local self-governing unit's budget and its main aim is the administration of public government.

Types of Public Officers



During the monitoring period (August-December of 2010) the existing legislation of Georgia considered the existence of the following 16 Ministries of Georgia:

1. Ministry of Education and Science of Georgia
2. Ministry of Environment Protection and Natural Resources of Georgia
3. Ministry of Economic and Sustainable Development of Georgia
4. Ministry of Energy of Georgia
5. Ministry of Defence of Georgia
6. Ministry of Justice of Georgia
7. Ministry of Culture and Monument Protection of Georgia
8. Ministry of Internally Displaced Persons From the Occupied Territories,

Accommodation and Refugees of Georgia

9. Ministry of Foreign Affairs of Georgia
10. Ministry of Internal Affairs of Georgia
11. Ministry of Agriculture of Georgia
12. Ministry of Finance of Georgia
13. Ministry of Labour, Health and Social Affairs of Georgia
14. Ministry of Corrections and Legal Assistance of Georgia
15. Ministry of Regional Development and Infrastructure of Georgia
16. Ministry of Sport and Youth Affairs of Georgia

Together with it, **the reorganization process of the Ministries founded as a result of Ministry of Culture, Monuments Protection and Sports reorganization was not completed that was reflected in de facto absence of the official web-page of the Ministry of Sport and Youth Affairs; this is the reason why IDFI working group could not carry out the monitoring of its web-page.**

The unity of features for the purposes of web-pages information transparency that is characteristic to the Ministries of Georgia - the main circle of the system of state government central bodies.

Ministry of Georgia

- Is a governing institution of the executive government of Georgia;
- Is organized on the basis of the statute;
- Ensures the realization of state policy and administration in defined sphere;
- Is financed from the state budget, possesses a completed balance, estimates, account number in treasury and a seal with the State Emblem logo;
- Is accountable for the targeted use of budget resources;
- Is based on the autocratic principle;
- Is divided into structural sub-units;
- May have territorial bodies;
- Is accountable to the Government;
- Is directed by the Minister who passes orders and has first deputy and deputies;
- Is authorized to represent the state during carrying out activities considered by the legislation of Georgia;
- Via the Ministry the Government ensures the administration of the executive government.

State Sub-Agencies

Together with the system of state government central bodies, the state sub-agencies represent one of the important circles, in the system of state government central bodies. While talking about sub-agencies we should mention the condition that they represent institutions that are under governance of certain Ministry. In other words, they are directly “attached” to the governance field of particular Ministry. In accordance with the acting legislation of Georgia, the State Departments were reorganized to state sub-agencies that were assigned to the corresponding Ministries. Therefore, for the reader it will not be surprising that sub-agencies, from the organizational, legislative and functionality point of view are the closest ones to the Ministries, in comparison with other circles of state government central bodies system. **Furthermore, in many cases in the system of state government central bodies only the sub-agencies under the governance of Ministries and the Ministries have similar unique characteristic features.** For example, similar to the Ministry, its sub-agency also represents the institution of executive government; the government carries out the executive governance by means of Ministries and the sub-agencies under the governance of ministries. State representativeness is another unique feature that is characteristic to both of them: the clause 27 of the law “on Structure, Authority and Rule of Activity of the Government of Georgia” directly defines that “the ministry or the sub-agency is authorized to represent the state during realization of activities foreseen by the legislation of Georgia”. In regard with this issue, we have to mention about the norm, according to which if the legislation does not define the state representative among executive government institutions in specific legislative relation, the representative of the state is assigned by the Government. As for the role of the state sub-agencies in relation to public service, in this case we get the characteristic feature similar to that of the Ministry. Namely, as it was already mentioned ministries and the state sub-agencies clearly represent public government bodies (state institutions), in case of which the activities are considered to have public nature:

Unique similar characteristic features of Ministries of Georgia and state sub-agencies within the system of state governance central bodies

Executive government institution

By means of the institution the government ensures the administration of executive governance

State representation

Public government body, the activities of which are considered to have the public nature

In accordance with the existing legislation of Georgia the state sub-agency is established, reorganized and liquidated on the basis of law or the Government resolution. **The state sub-agency is founded for the purpose of realizing government tasks in social, economic, cultural or in other fields. The state sub-agency is financed by the state budget and is accountable on the targeted use of budget resources.** As for the accountability in general,

as a rule, the state sub-agency is accountable to the Minister who supervises the institution in accordance with the legislation. Though, the institution may also be accountable to the deputy curator minister who is granted the authority of supervision mentioned above by the legislation. **There is an interesting regulation of accountability in the Ministry of the Economics and Sustained Development of Georgia and the sub-agency of the same ministry - United Transport Administration.** According to the acting statute of United Transport Administration the administration is accountable to the Government and the Prime Minister of Georgia.

As a rule, the head of the state sub-agency is assigned and released from the working position by the Prime Minister. Though, according to the acting legislation of Georgia, there are three cases that differ from the statement mentioned above. These cases are:

State Sub-Agencies	Head Official	Is assigned to the position by	Is released from the position by
State sub-agencies under governance of the Ministry of Internal Affairs and Ministry of Defence of Georgia	All heads	Prime Minister On the basis of the Minister's official presentation and agreement with the President of Georgia	The President of Georgia On the basis of his/her own initiative or the Prime Minister on the basis of the Minister's official presentation
State sub-agency - Prosecutor's Office of Georgia under governance of the Ministry of Justice	Chief Prosecutor	The President of Georgia On the basis of the official presentation made by the Minister of Justice of Georgia	The President of Georgia On the basis of the official presentation made by the Minister of Justice of Georgia
State sub-agency - Investigation Department of the Ministry of Finance of Georgia under the governance of Ministry of Finance of Georgia.	Head of the Department	The President of Georgia On the basis of the official presentation of the Minister agreed with the Prime Minister of Georgia	The President of Georgia On the basis of the official presentation of the Minister agreed with the Prime Minister of Georgia

One of the important regulatory documents of sub-agencies is the statute of the state sub-agency. Similar to the statute of the Ministry, the statute of the sub-agency, as a rule defines:

- Full name and the legal address of the sub-agency;
- Field of activities, tasks, functions and competences of the sub-agency;
- Organization and the rights and responsibilities of management of the sub-agency;
- System, structure, main tasks, functions and competencies of the of structural sub-units of sub-agency;
- Other important issues connected with the organization of the sub-agency activities (legal basis of its activities, financing, accountability, symbolics etc).

State sub-agencies may have territorial bodies that represent these institutions in corresponding administrative and territorial units. According to the acting legislation of Georgia the Minister:

- makes decisions on foundation of territorial body, reorganization and termination of activities of state sub-agencies, if anything different is not established by the law;
- assigns and releases from the position the head and deputy head of the territorial body of the state sub-agency, on the basis of official letter of the head of the institution;
- Affirms the statute of the territorial body that defines governance sphere of the territorial body of state sub-agency, its rights, responsibilities and main directions of its activities.

It would be logical that IDFI working group selected the web-pages of state sub-agencies together with the web-pages of the Ministries as targets of monitoring. Though, legal entities of public law that were incorporated in the systems of ministries were selected as the second target of the monitoring, as a result of their abundance on the one hand and the enough number of official web-pages in Internet on the other. This principle of selecting targets is considered to be optimal for the purpose of defining the initial stage of information transparency on official web-pages of public authorities. Though, this does not exclude the further detailed study of the matter by IDFI and the widening of the monitoring target circles.

The unity of features for the purposes of web-pages information transparency that is characteristic to the one of the circles of the system of state government central bodies – state sub-agency under the governance of ministries of Georgia:

State Sub-Agency

- Is the institution included in the system of Ministry of Georgia and Executive Government of Georgia;
- Is organized on the basis of the statute;
- Is established for the purpose of carrying out state tasks and public functions in social, economic, cultural and in other fields;
- Is financed from the state budget, has a completed balance, estimates, account number in the treasury and seal with State Emblem logo;
- Is accountable for the targeted use of the budget resources;
- Is divided into sub-structures;
- May have territorial bodies;
- Is accountable to the Minister/Curator Deputy Minister (may be accountable to government and the Prime Minister);
- Has a director (chief, head etc) who passes individual administrative and legislative acts and has deputy(ies);
- Is authorized to represent the state during carrying out activities considered by the legislation of Georgia;
- State sub-agency functions as the tool of executive government administration implemented by the government.

Legal Entities of Public Law

Legal entity of public law plays a significant role in the system of state governance central bodies and in state governance mechanism in general. Public activities of LEPL-s, as they are often called, do not belong to the competencies of state government bodies. **Legal entity of public law, in accordance with the legislation is an independent organization from the state government bodies and carries out political, state, social, educational cultural and other social activities independently, though it is subject to state control.** It must be said that our classification of legal entities of public law as members of state government central bodies group is to some extent conditional and is characterized with functional analogies of other central bodies. It is true that the main activities of LEPL-s involve the realization of public activities, though this does not primarily mean that all legal entities of public law realize authorities granted by the government. According to the current legislation of Georgia, the right of state control and supervision is granted to legal entities of public law only in cases defined by law. In accordance with the legislation the sources for financing legal entities of public law can be the following:

- a) Membership fees;
- b) Targeted sources derived from the corresponding budget;
- g) Income received from state order accomplishment;
- d) Income received as a result of accomplishing of activities considered by the agreement;
- e) Other types of income permitted by the legislation of Georgia.

These sources and income are spent on realization of aims and functions of legal entities of public law; but in the cases considered by the legislation of Georgia, the funds are spent on the development of the system of the body carrying out the state control. **The use of funds of legal entities of public law for other purposes is prohibited.** If a legal entity of public law was financed from the state budget, this must by all means be reflected in the corresponding budget document. Though the legal entity of public law has right to carry out entrepreneurial activities, if the LEPL starts to carry out entrepreneurial activities to the greater extent than it is established by law, the corresponding state government body is obliged to put forward the issue of the entity reorganization or liquidation.

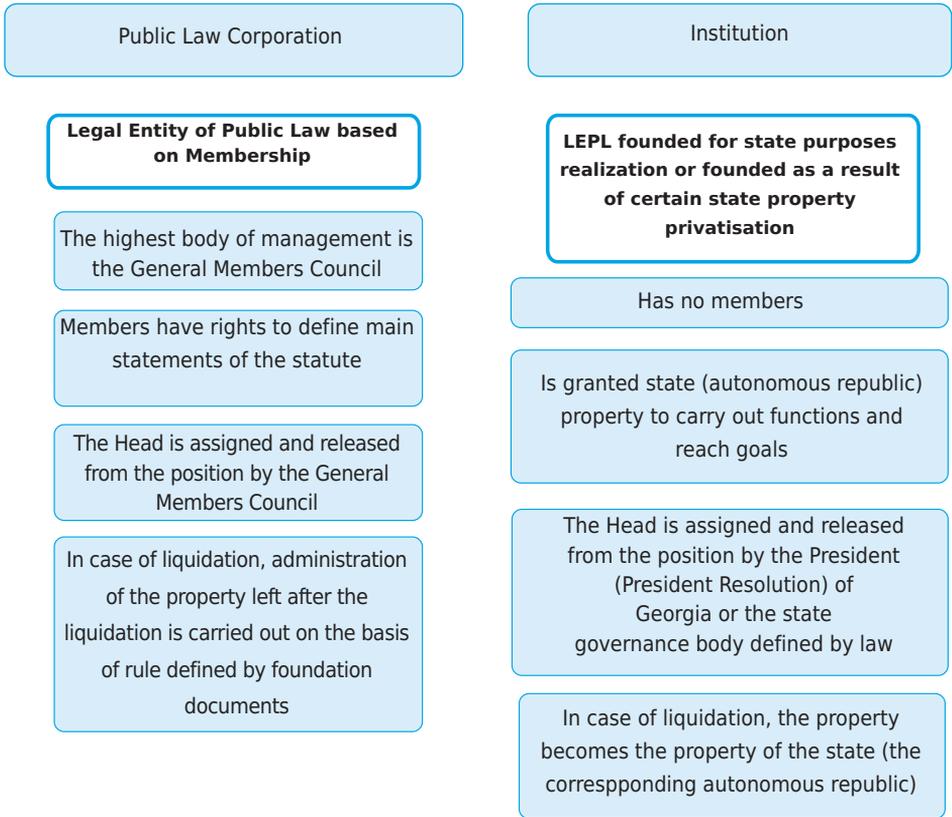
The main regulatory document of legal entity of public law activities is the statute of the legal entity of public law. According to the legislation, the statute of the LEPL must involve the following:

- name including "Legal Entity of Public Law";
- objectives, functions and the field of activities;
- rule of government body establishment and its competencies;
- rule of assignment of person having representative authority and his/her competencies;
- form and framework of state control;
- basics of financial activities, fees, membership fees etc;
- rule and conditions of liquidation;

- Rule of making changes in the statute.

Requirements mentioned above are mostly considered for LEPL-s (public corporations) that are based on membership. While talking about the statutes of LEPL-s (established as a result of state property privatization) it should be mentioned that the structure of their statutes is analogous to statute structures of ministries and their sub-agencies; this made the process of development of evaluation parameters of information transparency and their comparison to LEPL-s of the ministries' system easier.

Classification of Legal Entities of Public Law According to Their Structure (in accordance with the clause 4 of Law of Georgia "on Legal Entity of Public Law"):



Division of Legal Entities of Public Law according to Groups (in accordance with the clause 1509 of Civil Code of Georgia):

Legal Entity of Public Law

(In accordance with the acting legislation the list is not extinctive)

1) State of Georgia

2) Self-Governing Unit

3) Legal entities established by the state, on the basis of legislation or administrative act

4) State Institutions and State Fund

5) Political Parties

6) The Georgian Apostolic Autocephalous Orthodox Church

- (1) **State of Georgia is the primary subject of public law. In legal relations of Civil Law the state acts as a legal entity of private law by means of its bodies (ministries, sub-agencies etc) that are not legal entities;**
- (2) **It is a corporation of public law. In case of legal relations of Civil Law the self-governing unit acts as legal entity of private law, by means of its bodies (management bodies, departments etc) that are not legal entities;**
- (3) **Organizations founded on the basis of particular legislation that carry out state functions;**
- (4) **Property foreseen for public objectives that is administered by the state by the body established for this very purpose; it is a legal entity founded as a result of state property privatization or established for the purpose of carrying out state objectives;**
- (5) **Non-state organization founded on the basis of legislation for the fulfillment of public objectives, that is not founded on the basis of administrative act in comparison with other groups;**
- (6) **Legal entity of public law recognized by the constitutional agreement.**

Due to the abundance of legal entity categories, IDFI working group logically selected particular category of LEPL-s web-pages, the legal entities of public law that are controlled by ministries and are defined by statutes of Ministries. During the monitoring period (August-December, 2010) the following official web-pages of LEPL-s under the control of ministries acting statutes were accessible by means of Internet:

Ministries	Legal Entities of Public Law
Ministry of Internal Affairs (www.police.ge)	Academy of the Ministry of Internal Affairs of Georgia (www.policeacademy.ge) The Security Police (www.spd.ge) Service Agency of the Ministry of Internal Affairs of Georgia (saagento.security.gov.ge)
Ministry of Labor, Health and Social Protection (www.moh.gov.ge)	Social Service Agency (www.ssa.gov.ge) The National Center for Disease Control and Public Health (www.ncdc.ge) State Fund for Protection and Assistance of Victims of Human Trafficking (www.atipfund.gov.ge) Health Insurance Mediation Service (www.him.ge)
Ministry of Environment Protection and Natural Resources (www.moe.gov.ge)	National Environmental Agency (www.nea.gov.ge) Agency of Protected Areas (www.dpa.gov.ge) Forestry Department (www.forestry.ge)
Ministry of Finance (www.mof.ge)	The Finance Academy of the Ministry of Finance (www.mofacademy.ge) Service Agency of the Ministry of Finance (www.seragency.gov.ge)
Ministry of Corrections and Legal Assistance (www.mkla.gov.ge)	Legal Aid Service (www.legalaid.ge) National Probation Agency (www.probation.ge) Penitentiary and Probation Training Centre (www.pptc.gov.ge)
Ministry of Infrastructure and Regional Development (www.mrdi.gov.ge)	Municipal Development Fund of Georgia (www.mdf.ge) Center for Effective Governance System and Territorial Arrangement Reform (www.cegstar.ge)
Ministry of Economy and Sustainable Development (www.economy.ge)	Enterprise Management Agency (www.ema.gov.ge) National Tourism Agency of Georgia (www.dotr.gov.ge) The Chamber of Commerce and Industry of Georgia (www.gcci.ge) Georgian National Agency for Standards, Technical Regulation and Metrology (www.gnims.caucasus.net)
Ministry of Education and Science (www.mes.gov.ge)	Educational and Scientific Infrastructure Development Agency (www.esida.ge) National Examinations Center (www.naec.ge) National Curriculum and Assessment Centre (www.ncac.ge) National Center for Educational Quality Enhancement (www.nea.ge) Shota Rustaveli national science Foundation (www.rustaveli.org.ge) National Center for Teacher Professional Development (www.tpdg.ge)
Ministry of Justice (www.justice.gov.ge)	Notary Chamber of Georgia (www.notary.ge) The National Archives of Georgia (www.archives.gov.ge) National Agency of Public Registry (www.napr.gov.ge) National Agency of Civil Registry (www.cra.gov.ge) The Training Center of Justice (www.tcj.gov.ge) National Bureau of Enforcement (www.nbe.gov.ge)
Ministry of Defence (www.mod.gov.ge)	Legal entities of public Law under submission of the Ministry did not have official web-sites.

Ministry of Culture and Monument Protection (www.msc.gov.ge)	Reorganization of the system of the ministry was not finished.
Ministry of Energy (www.Minenergy.gov.ge)	Legal Entity of Public Law under submission of the Ministry, according to the decree of the President was reorganized as legal entity of private law.
Ministry of Foreign Affairs (www.mfa.gov.ge)	In the statute of the Ministry does not define the Legal Entity of Public Law.
Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees (www.mra.gov.ge)	Legal entity of Public Law under submission of the Ministry did not have official web-sites.
Ministry of Agriculture (www.maf.ge)	Legal entities of public Law under submission of the Ministry did not have official web-sites.
Ministry of Sport and Youth Affairs (www.msy.gov.ge)	Reorganization of the system of the ministry was not finished and the Ministry did not have an official web-site.

In general, when we speak about other characteristic features of legal entities of public law, it must be mentioned that according to the current legislation the legal entity of public law is founded and acquires the status of legal entity from the moment of its statute affirmation and the assignment (electing) of legal entity representative authorized person. The legal entity of public law stops functioning in the following cases:

- a) When the accomplishment of the objectives become impossible;
- b) Due to the termination of the foundation period;
- c) In other cases foreseen by the foundation act (statute).

The level of independence of Legal Entities of Public Law are somewhat limited by the state control. According to the clause 11 of law of Georgia on “Legal Entity of Public Law” the Legal Entity of Public Law is controlled by the state that involves the supervision of legality, objectiveness and effectiveness, as well as financial and economic supervision of activities carried out by the entity.

According to the existing legislation, the control of the legal entity of public law is carried out by state governance body defined by the President’s Resolution of Georgia or the State Minister. For the purpose state control effectiveness the body carrying out the state control is authorized to ask for the materials and information necessary for the control; this body is authorized to cease or liquidate certain decisions of the legal entity of public law. When the legal entity of public law is founded by Tbilisi Government or the Higher Executive Body of Autonomous Republic, control over the legal entity of public law is carried out by these bodies correspondingly, on the basis of certain normative act. Limitations of LEPL-s by state is also reflected in legislation condition according to which the legal entity of public law founded on the basis of state (autonomous republic) property does not have right to carry out the following activities:

- a) Purchase of real estate, its alienation and mortgage;
- b) Taking loan;
- c) Warranty;

- d) Defining of regular schedule and salary fund;
- e) Establishment of limits of material benefits, fuel to be purchased and communication expenditures (except of educational and scientific and research institutions);
- f) Other decisions connected with the property of legal entity of public law if they go beyond everyday activities;
- g) Taking loan and warranty without the consent of the Ministry of Finances of Georgia is prohibited.

Norms presented above serve the protection of state interests, though the LEPL, in accordance with the current legislation possesses legal protection mechanisms as well: refusal from the side of state on carrying out the activities mentioned above should be documented and may be investigated by the upper body or at court. State control is reflected in accountancy matters of legal entity of public law. In accordance with the rule established by legislation, LEPL is obliged to give accounts of its financial and economic activities, make balance and present it to the corresponding state control body for affirmation. The annual balance of LEPL is done by the independent auditor assigned by the body carrying out the state control. And finally, the liquidation of LEPL-s is done by liquidators assigned by the body carrying out the state control. The liquidator also may be the head of the Legal Entity of Public Law.

It seems that despite the independent organizational status of LEPL-s from the state government bodies, still the state control mechanism somehow limits the legal entities of public law, from the point of view of state interests.

The unity of information transparency monitoring features that are characteristic to one of the sub-circle of connected with the central system of bodies of state government - to legal entities of public law functioning in the field of ministry activities that are under governance of state control:

LEPL that is included in the system of the Ministry of Georgia

- Is under the governance of the ministry of Georgia;
- Is organized on the basis of statute;
- Acquires rights and responsibilities, makes agreements, acts with the third parties, including at courts as defender or defendant;
- Carries out public activities and development independently but is under the state control;
- In most cases possesses property granted by the state;
- Possesses an independent balance, calculatory, currency and other types of bank accounts, seal with the state State Emblem and other requisites of legal entity of public law;
- Is divided into structural units; may have territorial bodies;
- Is accountable to the Ministry of Georgia;
- Has a director (general director, the head, the chairman, rector etc) who issues individual-administrative acts and may have deputy or deputees;
- Ministry of Georgia is the body carrying out the state control.

Independent National Regulatory Bodies

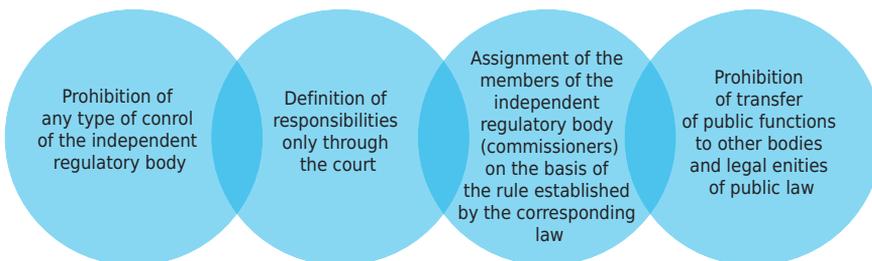
We must review one of the important circles within the the system of state governance central bodies. This is a circle of Independent National Regulatory Bodies. If in case of Legal Entities of Public Law that have independent status from the state governance and independent regime of carrying out activities, still some limitations resulted from the state regulation were evident, such kind of regulation can not be found in cases of independent national regulatory bodies. **The element of the name of these bodies itself - “independent”, directly points to the absence of any kind of influence from other bodies and shows the highest level of quality of their independence.**

According to the current legislation (December, 2009) there were the following Independent Regulatory Bodies in Georgia:



It must be mentioned that according to the law of Georgia “on Independent Regulatory Bodies” the Independent Regulatory Bodies represent legal entities of public law. Consequently, as a result of organizational and structural analogy of the legal entities of public law within the system of the ministries of Georgia, evaluation table of the public authorities web-pages fits the number of parameters of information transparency of these bodies.

The principles defining the independence of the regulatory bodies include the following:



According to the existing legislation, the regulatory bodies are free from any kind of political influence; they are free from influence from state bodies, other persons and illegal interruption, as well as from any other activity that may cease their independence. Independent regulatory body represents a legal entity of public law having special rights founded by the state, for the purpose of regulation of certain field that does not have controlling body; it is independent from state bodies and acts within the framework of the authority established by the legislation. The legislation prohibits the interruption of the independent regulatory body activities, its control and asking for reports by any state body, if this is not directly foreseen by the corresponding law. Besides, the regulatory bodies have financial independence that means that they are not financed from the budget, the main source of their budget is financing received from their field of regulation. In accordance with the legislation, independence guarantees are established for the members (commissioner) of the body, assigned by the act of corresponding body. Any kind of influence and illegal interruption of the commissioner's professional activities is strictly prohibited, as he/she has full authority granted by the legislation in taking decisions. The release of the commissioner from the position is possible in the following cases foreseen by the legislation: court's decision, violation of ethical norms, failure to accomplish professional duties within the period defined by the corresponding law, in case of court's decision that the person is lost or deceased, losing the citizenship of Georgia, resignation and death.

Besides independence, the regulatory bodies have authorities of passing normative acts, licence and permission decisions and the authority of settling fee disputes:

<p>Authority of passing normative acts</p>	<ul style="list-style-type: none"> • independent regulatory body is authorized to receive rules of general conduct having legislative nature (legislative acts); • normative act of the independent regulatory body is the National Commission Resolution; • independent regulatory body passes acts in accordance with the law of Georgia on 'Normative Acts'.
<p>Licence and permission authority</p>	<ul style="list-style-type: none"> • independent regulatory body has full authority to issue licences and permissions within the framework of its competencies; as well as cease their validity period, prolong their validity period, modify or liquidate them; • interruption and control of licence and permissions authority of independent regulatory body is prohibited.
<p>Authority concerning charges</p>	<ul style="list-style-type: none"> • the independent regulatory body is authorized to set and regulate fees, within the framework of its competencies and the legislation of Georgia; • interruption and control of activities connected with the fees regulation authority of independent regulatory body is prohibited.
<p>Authority of settling the disputes</p>	<ul style="list-style-type: none"> • the independent regulatory body is authorized to settle disputes that arise in connection with licences and permits issued by them, among the owners and users of the licences/permits; • Decisions of the independent regulatory body concerning the disputes mentioned above may be appealed to court.

Despite the independent status granted by the legislation to these bodies, there still remains minimal role of state bodies in relation to the activities of independent regulatory bodies that according to the acting legislation is distributed as follows: decisions of the Independent Regulatory Body are subject to review carried out by **the court; the Parliament of Georgia** is authorized to take decision on audit of budget accomplished by the Independent Regulatory Body; in accordance with the current legislation, the audit is carried out by independent auditors who are selected by tender commission. The members of this commission are affirmed by **the Parliament** on the basis of official letter of field economics and economic policy committee. And one of the basic principles defining the independence of regulatory body - the prohibition of any type of control of the regulatory body, does not exclude the preparation of report only to **the President of Georgia and the Parliament**, in accordance with the rule established by the corresponding law. According to the 5th point of the first clause of the statute of Energy and Water Supply National Regulatory Committee of Georgia, the commission prepares the report until March 31 annually and presents it to **the President of Georgia, Parliament and the Ministry of Energy**. According to the 4th clause of the same statute, the members of the commission are assigned to and released from the position by **the President of Georgia**, and one of the members is assigned as Chairman by **the President of Georgia**.

According to the acting legislation, besides the most important function of

regulation (that involves passing the legislative acts within the framework of its competencies and the legislations, monitoring, coordination, supervision and control of of liscense/permit conditions accomplishment) of the regulatory body, another important function of the body is the ensurance of accessibility to public information, for the consumers, review and settlement of their statements and complaints. For the purposes of the consumers' interests protection, the service of Consumer Interests Public Protection is introduced. The service acts independently from the regulatory commission. Public Ombudsman of the consumers' interests is assigned to the position on the basis of open competition. The decision is formulated by the order of the corresponding regulatory body chairman and the commission is selected by Ombudsman of Georgia.

The unity of information transparency monitoring features that are characteristic to one of the sub-circles connected with the bodies of state government central system – to Independent National Regulatory Bodies:

Independent National Regulatory Body

- Constantly functioning body that is not subject to control from any of the state institution;
- Is founded as LEPL and has special rights and authorities;
- Is organized on the basis of the statute;
- Is independent within the framework of its activities and acts according to the legislation of Georgia;
- Possesses financial independence – is not financed from the budget;
- Possesses independent balance and corresponding accounts at bank; has its own seal with the state State Emblem and the name;
- For the purposes of functioning has its own apparatus that consists of structural units;
- Has independent service of public ombudsman that protects the rights of consumers;
- Has a director – the chairman of the commission.

Other Pubic Authorities

In general, while speaking on public information and its accessibility to the society, on internet transparency or e-Government, it is necessary to know the meaning of concept of public authority, i.e. the society must be able to guess which body possesses public information that is subject to disclosure, in cases considered by the legislation. Besides the LEPL-s and ministries of Georgia that we have selected as monitorinbg targets, there are a number of public authorities that have the obligation of making public information accessible to society. From the point of view of public information openness, we can distinguish the institutions that are represented by the three branch of the Government:

1. Chancellery of the Parliament;
2. Minister Apparatus of Georgia;
3. State sub-agencies, including Prosecution Office;
4. Institutions of Executive Governments of Autonomous Republics of Abkhazia and Adjara;
5. South Ossetia Administration;
6. State Trustee – the Governor’s Administration;
7. LEPL-s accountable to the government that carry public functions – Agency of Free Trade and Competition, State Procurements Agency, “Sakpatenti” – the National Center of Intellectual Property of Georgia etc.;
8. Institutions and discussion boards under the governance of the head of the Government of Georgia – President’s Administration, Intelligence Agency of Georgia, Security Council of Georgia, Special Department of State Defence of Georgia, Civil Service Council;
9. Institutions of Judicial Government – the Supreme Court of Georgia, Courts of Appeal, Regional Courts, Constitutional Court of Georgia;
10. Supreme Council of the Justice of Georgia, Higher School of Justice;
11. The higher representative body of legislative government – Parliament and its institutions – the supreme representative bodies of Abkhazia and Adjara Autonomous Republics;
12. Many independent bodies – independent acting regulatory bodies of Georgia, Control Chamber of Georgia, National Bank of Georgia and its LEPL – Financial Monitoring Service, Public Ombudsman, Central Elections Commission of Georgia, LEPL “Public Broadcaster” etc.

This is the non-exhaustive list of public authorities to which the norms of chapter 3 of the General Administrative Code of Georgia refer to. And according to the current legislation of Georgia, legal entities of private law (limited liabilities companies, joint stock companies etc) that in certain cases were financed from the state budget are considered as public authorities.

Public authorities in most cases have many general characteristic features (management, organization, structure, legislative acts that regulate their activities, tasks and objectives, functions and competencies, state control mechanisms, accountability on targeted use of budget funds, symbolics etc) and what is most important is the condition that all official documents stored in these institutions as well as all correspondence received by the institution connected with the activities of the institution is **considered to be public information in accordance with the legislation**. And everyone has right to ask for the access to these documentation.

Unfortunately, the institutions mentioned above do not have one more general characteristic feature – there is no legislative requirement that would oblige the institutions to have their own official web-page; and there is no standard that would define the category of information that would be necessary for publishing on the web-pages of the institutions mentioned above. The Institute for Development of Freedom of Information continues to work actively on those problematics.